

**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

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Investigation of Whitewater Develop...

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**SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

ADMINISTERED BY THE

**COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS**

FIRST SESSION

VOLUME IV

ON

**THE INQUIRY INTO WHETHER IMPROPER CONDUCT
OCCURRED REGARDING THE WAY IN WHICH
WHITE HOUSE OFFICIALS HANDLED DOCUMENTS
IN THE OFFICE OF WHITE HOUSE DEPUTY COUNSEL
VINCENT W. FOSTER, JR., FOLLOWING HIS DEATH**

JUNE 28, 29, 30, JULY 5, 6 AND 7, 1995

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

DEPOSITIONS

BEFORE THE

**SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

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**DEPOSITION OF DENNIS M. CONDON
IN RE: S. RES. 120**

WEDNESDAY, JUNE 28, 1995

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.**

Deposition of DENNIS M. CONDON, called for examination pursuant to notice of deposition, at 1:40 p.m. in Room 640-A of the Hart Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

**MICHAEL CHERTOFF, Esq.
Majority Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.**

**PAUL J. FISHMAN, Esq.
U.S. Department of Justice
Room 4222
Tenth Street & Constitution Avenue, NW
Washington, DC 20534
and**

**ANDREA M. SIMONTON, Esq.
Deputy General Counsel
Federal Bureau of Investigation
Tenth Street & Pennsylvania Avenue, NW
Washington, DC 20535
On behalf of the Deponent.**

**ALSO PRESENT: CHARLES J. SGRO
TASHIA URLAND**

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P R O C E E D I N G S

Whereupon,

DENNIS M. CONDON

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CHERTOFF:

Q Sir, would you spell your name for the court reporter, if you haven't already.

A Dennis M. Condon, C-o-n-d-o-n.

Q Agent Condon, let me just give you some preliminary information about the manner in which this deposition is going to proceed. I'm Michael Chertoff and I'm special counsel to the Senate Committee that's investigating Whitewater and related developments. Lance Cole is here. He represents the Democrats on the same committee in the same investigation, and he's here with Tashia Urland who's also working this summer with the Democratic side of the Committee.

The deposition we're conducting here is pursuant to Senate Resolution 120, which establishes

4

a Special Committee of the Senate to conduct an investigation into Whitewater Development Corporation and a series of other related matters.

Section I.B.1 of Resolution 120 authorizes the investigation and public hearings into "whether improper conduct regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death." That's going to be the focus of today's deposition.

It may be the fact that you will be required to testify in addition at public hearings. Do you understand all of that?

A Yes, I do.

Q How did you learn about the request that the Senate made to have you testify here?

A I received a phone call from Andrea Simonton. I think that was my first notification, I believe.

Q And were you ever shown a letter from the Senate that actually requested you to testify along with a number of other people?

1 A No.

2 Q So you got an oral request?

3 A Right.

4 Q What's going to happen is I'm going to ask
5 you a series of questions and you'll answer them.

6 You understand you're testifying under oath?

7 A Yes.

8 Q Now, if you don't understand a question,
9 let me know and I'll rephrase it.

10 A All right.

11 Q Don't guess or speculate unless I
12 specifically ask you to guess or speculate.

13 A Okay.

14 Q If you want to consult with your counsel,
15 and I notice there are three attorneys here, just
16 indicate that you want to do so and we'll go off the
17 record and you can consult.

18 MR. CHERTOFF: Now, I'm going to ask one of
19 the attorneys to designate himself or herself as the
20 attorney who will be making objections and speaking
21 for the witness.

22 MR. FISHMAN: Well, let me clarify

1 something. Technically, we do not represent the
2 witness, except in his official capacity as an agent
3 of the Federal Bureau of Investigation. We obviously
4 are here representing the Department of Justice and
5 the FBI. To the extent that we believe that any
6 questions posed by you or Mr. Cole are heading in a
7 direction of perhaps getting into areas that may
8 compromise law enforcement interest, we will ask to
9 go off the record to see if we can work out the
10 appropriate direction of those inquiries so as to be
11 fully cooperative and allow the Committee to pursue
12 its oversight rule and ensure there's no problem. To
13 the extent that's necessary, I will be doing that.

14 BY MR. CHERTOFF:

15 Q Mr. Fishman will be the lawyer who is
16 speaking on your behalf; is that correct?

17 A Fine, yes.

18 Q If you need a break for some other reason,
19 let me know and we'll take a break. You see a
20 stenographer here. She's going to prepare a record
21 of the questions and answers. That's ultimately
22 going to be embodied in a transcript which is going

1 to be held by the Committee under conditions we call
2 committee confidential. That will be the case up
3 until the hearings.

4 Once the hearings begin, it may be that
5 some or all of your deposition will become public, so
6 you should be aware of that. At some point, probably
7 four days before the hearings are scheduled to begin,
8 a final deposition will be placed in a reading room
9 and you'll be given the opportunity to come up and
10 look at it and make any corrections you want to make
11 in the transcript, corrections as to misspellings or
12 if a date is wrong or something of that sort.

13 Although I should warn you if your
14 corrections are anything other than ministerial
15 corrections, they could very well cause us to bring
16 you in to be redeposed again about the particular
17 matter you're correcting.

18 Also, if you are called as a witness at the
19 hearing, and I can't predict yet whether that's going
20 to happen, you'll be given a copy of the deposition
21 yourself four days before you testify so you can have
22 it to prepare for your testimony, but it will be

1 under certain conditions. The basic condition being
2 that you not disseminate the contents of that
3 deposition to anybody else except your own attorney,
4 either in writing or orally. Do you understand that?

5 A Yes.

6 Q I've indicated -- obviously we have counsel
7 who's going to be representing you and your
8 department, you in your official capacity. There may
9 be objections to the forms of questions. Those would
10 be noted for the record, but you should still answer
11 the question.

12 There may be objections on the grounds of
13 privilege or something of that sort. Only if your
14 counsel directs you not to answer should you not
15 answer, but if we do have objections or colloquy or
16 discussion about some issue concerning the propriety
17 of a question, please don't answer until we've
18 resolved it amongst ourselves.

19 You should understand that in the event of
20 a dispute, ultimately we may either proceed and
21 someone will reserve the objection or we can take it
22 to the chairman of the Committee and have a ruling

1 about whether the question ought to be answered.

2 Is there anything that I've laid out for
3 you that's unclear?

4 A No.

5 Q Agent Condon, how long have you been with
6 the FBI?

7 A Since February 21, 1984.

8 Q And how far did you go in school?

9 A I have a bachelor's degree, bachelor of
10 science degree from Northeastern University in
11 Boston.

12

13

14

15

16 Q Have you been at the FBI continuously from
17 the time you joined up until the present day?

18 A Yes.

19 Q What's your current position?

20 A I'm assigned to the violent crime squad.
21 I'm the bank robbery coordinator.

22 Q In what division?

10

1 A Violent crimes, major offenders section,
2 metropolitan field office.

3 Q For what period of time have you been at
4 the Washington metropolitan field office?

5 A Since March of 1988.

6 Q During 1993, what was your particular
7 assignment at the field office in Washington?

8 A I was assigned to squad C-4, the violent
9 crime squad, and I was assigned to the bank robbery
10 program basically.

11 Q Other than talking to one of the attorneys
12 who are here today about your appearance at this
13 deposition, have you talked to anybody else about
14 your testimony here today?

15 A No.

16 Q Has anyone talked to you about their
17 appearances in deposition before the Senate?

18 A No.

19 Q I want to direct your attention to July 20,
20 1993. Do you remember that to be the day on which
21 Vincent Foster died?

22 A Yes.

1 Q Now, the next day, July 21, which was a
2 Wednesday, did you have occasion to become involved
3 in any investigation regarding Vincent Foster?

4 A Yes.

5 Q How did that come about?

6 A On that date, I was working -- I believe I
7 was out of the office, and I was contacted by
8 Supervisory Special Agent John Danna, and he
9 requested that I and Special Agent Scott Salter meet
10 him at the White House.

11 Q Do you know why you were selected to
12 perform this function?

13 A If memory serves me, I think that Scott
14 Salter and I were together that day, so we responded
15 over there together.

16 Q Did the call that Agent Danna put out go to
17 you or go to Agent Salter?

18 A I think that it may have been directed at
19 Agent Salter -- I'm not clear exactly, but we both
20 responded because we were together.

21 Q Do you know why either you or Agent Salter
22 were designated or picked to do this?

12

1 A No, I don't.

2 Q Without discussing the nuts and bolts of
3 any prior investigation, had you or Agent Salter
4 previously ever done any investigative work at the
5 White House?

6 A No.

7 Q What time did you get the call?

8 A I don't remember exactly.

9 Q Approximately.

10 A I think it was in the early afternoon.

11 Q After lunch?

12 A I think so.

13 Q What were you told by Agent Danna during
14 the telephone conversation, either what was told to
15 you directly or what was told to Agent Salter
16 directly?

17 A The only thing I can recall is that he
18 asked us to meet him at the -- I think he said the
19 west wing of the White House or west -- the southwest
20 gate or something to that effect.

21 Q Had you ever been there before?

22 A Not that I can recall, no.

1 Q What happened when you arrived at the White
2 House gate?

3 A We were admitted to the grounds and we went
4 to -- we ultimately wound up inside, I believe, it
5 was the west wing of the White House.

6 Q Did someone escort you in?

7 A I believe somebody did.

8 Q Do you remember who that was?

9 A I do not.

10 Q At what point did Agent Danna meet you?

11 A I believe we met with him almost
12 immediately upon our arrival.

13 Q Were you taken directly into the building,
14 or did you wait for a period of time at the gate?

15 A I don't recall. We may have waited -- if
16 we did wait, I can tell you it was only very briefly,
17 just to be admitted.

18 Q Where did you go inside the building?

19 A We went to -- I went into the west wing, I
20 believe it is, of the White House, and I think that I
21 may also have gone into the Old Executive Office
22 Building briefly.

1 Q Would that have been before you went to the
2 gate of the White House itself?

3 A I believe so, before I went into the west
4 wing, yes.

5 Q So you would have entered the compound
6 through the southwest gate; correct?

7 A That's correct, I believe, yes.

8 Q And then you went into the Old Executive
9 Office Building?

10 A I believe that's correct.

11 Q Where did you go there, what office in
12 particular?

13 A I don't recall.

14 Q Do you know why you went there?

15 A I don't recall exactly, no.

16 Q Did you meet anybody there?

17 A I believe so, but I don't know -- I don't
18 recall exactly who that might have been, possibly
19 somebody from the Secret Service, but I'm not
20 certain.

21 Q And then where did you go when you went
22 back to the west wing, what office?

1 A I don't know exactly which office we went
2 to right away. I know we sat in a waiting area, I
3 believe, for a time.

4 Q How long a time?

5 A It was -- it may have been an hour.

6 Q When you were sitting in this waiting area
7 for approximately an hour, who else was with you?

8 A Well, that would have been Special Agent
9 Salter and Mr. Danna, and I don't remember exactly
10 who else may have been sitting with us or waiting
11 with us.

12 Q Was there anybody else from the
13 Secret Service there?

14 A I don't remember exactly.

15 Q Was there someone from the Park Police
16 there?

17 A I don't think right away, but I think
18 eventually, yes. I think we waited together.

19 Q With the Park Police?

20 A I believe so.

21 Q Who were you waiting for?

22 A I'm not certain exactly who we were waiting

16

1 for. I think that we were waiting to learn what type
2 of investigation I was going to be involved in,
3 assisting with.

4 Q While you were waiting with Mr. Danna, did
5 he tell you anything more about why you were being
6 summoned down to the White House?

7 A At some point, if memory serves me, he made
8 me aware of the fact that it had to do with the
9 Vincent Foster suicide.

10 Q Did he explain why it is the FBI was being
11 called in on it?

12 A I don't recall if he told me why the FBI
13 was called in on it. If memory serves me, we were --
14 our interest -- I guess the FBI's interest would be
15 to determine if the cause of death might be something
16 other than a suicide.

17 Q Did you discuss with the Park Police, as
18 you were waiting there, why you were being called
19 into this?

20 A I don't have any recollection of having a
21 conversation with the Park Police at the time.

22 Q Do you remember who actually initially

1 invited the FBI into the case?

2 A My conversations with John Danna, it was as
3 a result of a contact that he had received from the
4 Park Police.

5 Q And had the Park Police requested the FBI's
6 assistance in conducting the investigation?

7 A That was my understanding.

8 Q Was it your understanding from Mr. Danna
9 that was because the Park Police were having
10 difficulty getting access to information at the White
11 House?

12 A I don't know.

13 Q Do you know what kind of assistance they
14 were looking for from the FBI?

15 A No, I don't know exactly.

16 Q Were people impatient waiting?

17 A Yeah, I believe so. I remember people were
18 impatient. We sat around.

19 Q Did anybody try to contact somebody in the
20 White House to try to find out what was going to
21 happen next?

22 A I'm not sure. I don't recall whether

1 anyone tried to contact someone.

2 Q Was there anyone in particular at that
3 point that you were waiting for?

4 A I believe that we were waiting for a
5 meeting with Bernard Nussbaum to determine how we
6 were to proceed -- what we were to do and how it
7 would be accomplished.

8 Q And who did you understand Mr. Nussbaum to
9 be?

10 A Counsel to the President.

11 Q Now, during this period of time that you
12 were waiting, did you have any understanding about
13 whether lawyers at the Department of Justice had been
14 engaged in the investigation?

15 A At that time?

16 Q Yes.

17 A I think at that time I was aware that
18 lawyers from the Department of Justice were also
19 involved in the investigation.

20 Q And who did you learn that from?

21 A I don't know. I don't recall.

22 Q Do you remember who the lawyers were -- or

1 did you know who they were at that time?

2 A I don't think at that time I knew who they
3 were. I later learned who they were.

4 Q Did you know at that point in time what
5 Mr. Vincent Foster's position at the White House had
6 been?

7 A I had some idea that he was an assistant or
8 an attorney, assistant to Mr. Nussbaum, to the White
9 House.

10 Q Did there come a time when someone came and
11 met you and brought you away from the waiting area?

12 A There did come a time, yes.

13 Q About how long was that after you first
14 arrived at the White House?

15 A Well, from the time we first arrived, I
16 would say it was something more than an hour or so,
17 an hour to an hour and a half perhaps.

18 Q So would that place it, in your mind,
19 somewhere in the late afternoon?

20 A Yes, I believe that's right.

21 Q Can you give us maybe an hour? Was it
22 around 4:00? Was it around 5:00?

20

1 A Possibly around 4:00.

2 Q Did you take any notes while you were
3 there -- in fact, during that day, were you taking
4 notes on a pad concerning what was going on?

5 A No.

6 Q You didn't keep any record of what was
7 going on on the 21st, any written record?

8 A No, I didn't.

9 Q Was anybody? Was Mr. Danna or was Agent
10 Salter keeping such a record?

11 A I don't know.

12 Q Did you see them writing something down?

13 A I don't recall seeing them writing
14 anything.

15 Q Who came and picked you up?

16 A I'm not certain.

17 Q Was it Mr. Nussbaum?

18 A I don't know for sure. I don't know.

19 Q Do you know if it was a man or a woman?

20 A No.

21 Q Where did they take you?

22 A Well, there was a brief meeting, as I

1 recall, that took place in Mr. Nussbaum's office, and
2 I don't recall whether I was in the room or not in
3 the room at that point. You say did someone take you
4 someplace. I don't recall whether I was taken into
5 that office of Mr. Nussbaum's or the meeting,
6 wherever the meeting with Mr. Nussbaum took place --
7 and I think it was his office -- and I'm not certain
8 whether I was inside or whether I was even a part of
9 that meeting.

10 Q But you went from this waiting area to a
11 meeting, or to the vicinity of the area?

12 A Correct.

13 Q At that point, had you been joined by
14 Department of Justice lawyers?

15 A I don't recall if they were -- I don't know
16 for certain if we had been joined by them at that
17 point or not.

18 Q Was there a point when there were
19 Department of Justice lawyers at the meeting?

20 A I believe so.

21 Q Was that Dave Margolis and Roger Adams?

22 A I believe so, yes.

1 Q Had you previously dealt with either of
2 those two people?

3 A No.

4 Q Did you know what their positions were at
5 the Department of Justice?

6 A I didn't know exactly, no.

7 Q Did you know approximately?

8 A I understood that they were attorneys for
9 the department, but I didn't know what their exact
10 function was, no.

11 Q Who was in and around the area of this
12 meeting on the 21st besides yourself?

13 A Well, Agent Salter. John Danna was still
14 in the vicinity, and again, I'm not sure whether he
15 was in the meeting or not. Bernard Nussbaum, and, I
16 believe, a couple of attorneys, White House
17 attorneys, Stephen Neuwirth and --

18 Q Clifford Sloan?

19 A Cliff Sloan, yes, that's the name. And
20 also I believe that there were representatives from
21 the Park Police. They had arrived, and they were in
22 the vicinity of this meeting, and I do believe that

1 there may have been one or two representatives from
2 the Secret Service.

3 Q Who's talking in the meeting?

4 A This is the meeting that I'm not -- I don't
5 recall whether I was in this meeting or outside the
6 meeting. So I really don't know.

7 Q Do you have an impression of who was
8 participating in the meeting actively?

9 A I believe the meeting was in Bernard
10 Nussbaum's office, so it would have been Bernard
11 Nussbaum, and I think the Park Police, maybe. But
12 again, I'm not certain because I don't recall whether
13 I was involved in this fairly brief meeting, I think
14 it was.

15 Q What about the Department of Justice
16 lawyers? Were they active participants in the
17 meeting?

18 A I can't say. I really don't recall.

19 Q About how long did the meeting last?

20 A It seems to me that it was brief. It was
21 20 minutes, 10 minutes. I don't really know. It was
22 not a long meeting, as I recall.

1 Q Where did you go after the meeting was
2 over?

3 A I believe -- I think we left the White
4 House.

5 Q Did you leave as a group?

6 A I believe so. I know that I left. I
7 believe I left with Scott Salter and John Danna, but
8 I can't recall exactly whether the other people all
9 left at the same time we did.

10 Q When you were in the vicinity of this
11 discussion, this meeting in Mr. Nussbaum's office,
12 were you located in the outer office or a common area
13 with some desks?

14 A You're talking the meeting I'm not sure I
15 was in?

16 Q Yes.

17 A I don't recall. I can't recall whether I
18 was inside his office or outside in the waiting area.

19 Q Do you remember the waiting area?

20 A Not exactly, no. I mean, I know there was
21 outside -- somewhere outside of his office. I think
22 there was an outer office, perhaps, I think with a

1 secretary or something. Then he had an office, and I
2 think that's where the meeting took place.

3 Q And you think you were in the outer office?

4 A I'm not certain. I'm not certain.

5 Q Did you at that point know where Vincent
6 Foster's office was in relation to Bernie Nussbaum's
7 office?

8 A I don't think at that point that I knew.

9 Q Did you look at any of the other offices in
10 the suite? Did you look around?

11 A No.

12 Q Do you remember whether the other office in
13 the suite, the other private office had its door open
14 or shut?

15 A No, I don't.

16 Q When you left the office area, did somebody
17 tell you what the meeting was about or what had
18 occurred at the meeting?

19 A I think -- my recollection is that someone,
20 and I'm not exactly sure whether it was Scott Salter
21 or John Danna, but I learned -- and I don't know
22 exactly from who -- that we would be returning the

1 following day, at which point we would go into
2 Mr. Foster's office and see whether there was any
3 indication in there of anything other than a suicide,
4 or whether there was any indication of a homicide.
5 That was my understanding when we left. And again, I
6 don't know exactly how I learned that, but --

7 Q When you say we were going to be back the
8 next day, who's the "we" that you understood was
9 going to be coming back?

10 A Scott Salter and I were going to be
11 returning from the FBI, and I'm not sure I knew at
12 that point who would be returning from the other
13 agencies. But I was aware, if I'm correct, that
14 representatives from the Department of Justice would
15 be there to participate.

16 Q Did you know who in particular from the
17 Department?

18 A I believe when I left there, it would be
19 the same -- Mr. Margolis, and I'm not sure if I was
20 aware that the same gentleman was going to be there,
21 but I was under the impression that Mr. Margolis
22 would be back.

1 Q Did you understand the next day you would
2 actually be in Mr. Foster's own office?

3 A That was my understanding when we left.

4 Q What was the discussion about whether that
5 office or how that office was being maintained until
6 you returned the next day?

7 A My recollection is that a Secret Service
8 agent, Don Flynn, I believe, had a key, and the
9 office had been secured and that it would remain
10 secured until the following day when the search would
11 occur.

12 Q I take it that's an important thing to
13 establish if you're going to conduct a search in
14 order to see if there's relevant evidence; correct?

15 A Sure.

16 Q Because you want to make sure nothing
17 relevant has been removed; correct?

18 A Right.

19 Q Was it your understanding as of the time
20 you visited the White House on the 21st of July that
21 anything had been removed from Vincent Foster's
22 office after his death?

1 A No, I was not aware that anything had been
2 removed.

3 Q Your understanding is that it had been
4 maintained intact?

5 A Yes.

6 Q Where did you get that understanding from?

7 A I don't recall where I got it, but that was
8 my impression, that the office had been secured. I
9 did do a brief interview of a woman at the White
10 House, Betsy Pond, and I reviewed my notes of that,
11 and I do recall that she told me that she had been in
12 there, I think it was the morning after Vincent
13 Foster's death, and I recall her -- from looking at
14 my notes, I remember now that she indicated she had
15 gone in there and was going to straighten up a little
16 bit, but she said it occurred to her that perhaps she
17 should leave the office as is, and so she left.

18 Q But as of the evening of the 21st, you
19 didn't know that yet?

20 A No. I think my interview with Betsy Pond
21 was on the morning of the search, the next morning.
22 I didn't know that yet, correct.

1 Q So as of the evening of the 21st, was the
2 general understanding among the Department of Justice
3 investigators and attorneys that the office had been
4 retained intact?

5 A Well, it was my understanding that the
6 office had been maintained.

7 Q What was the discussion or understanding
8 among the Department of Justice personnel after this
9 meeting at the White House on the 21st concerning
10 exactly how the search would be conducted on the next
11 day?

12 A Again, I don't know whether I was present
13 for that. I don't believe I was present for the
14 specific discussion as to how a search would occur,
15 but my understanding when I came back the next day,
16 or maybe it was that evening before we left, was that
17 we would return the following day and we would go
18 into the office and go through documents, look at
19 documents, and if there was anything that appeared to
20 be relevant to what our interest was, then we would
21 look at them and review them and do follow-up
22 investigation based on what we might see.

1 Q And your understanding is that you and
2 another Department of Justice personnel would
3 actually get to look at the documents?

4 A That was my understanding at that point, I
5 believe, yes.

6 Q When did you expect to be back the next day
7 to conduct the search?

8 A The next morning.

9 Q Now, what were the kinds of things -- after
10 you left that meeting on July 21st until you came
11 back the next day, what were the kinds of things in
12 your mind that you determined you would be looking
13 for in the search that would be relevant to your
14 investigation?

15 A Well, again, I thought that as we were
16 looking for something that might indicate that
17 Mr. Foster had killed himself, I thought that we
18 might find a note, a suicide note. That was one of
19 the things that I considered.

20 Q But at that point, you hadn't ruled out a
21 homicide?

22 A No, I don't think anybody had ruled it out,

1 but it appeared -- my understanding at that point is
2 it appeared to be a suicide.

3 Q So one of the things you would have looked
4 for would be a threat, if there was a threat?

5 A Something to indicate that he had been
6 murdered, yes, anything in writing that would
7 indicate that he had been murdered or anything
8 perhaps in his writing indicating he had killed
9 himself.

10 Q Were you also looking for things in writing
11 that indicated what his state of mind was, whether he
12 was worried about something?

13 A Well, yes, because that might indicate that
14 we had a suicide.

15 Q Was this plan about what you were going to
16 look for something that was actually discussed before
17 you came back to the White House the next day?

18 A Discussed --

19 Q Amongst yourselves and Department of
20 Justice personnel.

21 A I don't recall whether we discussed that
22 with the Department of Justice personnel before

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1 leaving that day.

2 Q Did you and Agent Salter talk between
3 yourselves about it?

4 A I don't recall any specific conversation
5 between Scott Salter and I.

6 Q What about you and Agent Danna?

7 A No, not that I recall.

8 Q Is there anything you did in preparation
9 that evening for going back the next day?

10 A No.

11 Q What was your arrangement in terms of
12 meeting on the morning of the 22nd? Where were you
13 going to meet?

14 A I don't recall whether Agent Salter and I
15 had planned to meet at the office and go over from
16 there or to meet over -- I think we went back to the
17 same place, the southwest gate, and I'm not -- I
18 don't recall whether we parked there or outside the
19 gate.

20 Q When did you go -- before I get to the next
21 day, still on the 21st, was there any other
22 discussion you recall on July 21st concerning FBI

1 investigation into Vincent Foster's death?

2 A Not that I can recall.

3 Q Did you report back to anybody at the field
4 office that evening about what had occurred at the
5 White House?

6 A No, I don't believe so, no.

7 Q When did you go to the White House the next
8 morning, on the 22nd?

9 A What time?

10 Q Yes.

11 A I don't recall exactly, but my recollection
12 is that it was in the morning. It may have been
13 sometime between perhaps 8:00 and 9:00 or somewhere
14 in that time frame.

15 Q Was it your understanding that you were
16 going to be conducting interviews of personnel on
17 that day?

18 A I believe so. I think that I was aware
19 that we would do some interviews.

20 Q Who decided the identity of the people to
21 be interviewed?

22 A I don't recall.

1 Q Was it Agent Salter?

2 A I don't know.

3 Q Was it the Department of Justice attorneys?

4 A I really don't know.

5 Q Was it Mr. Nussbaum?

6 A I really don't know.

7 Q After you arrived -- did you arrive at the
8 White House with Agent Salter?

9 A I think we arrived at about the same time.
10 I can't recall whether we came in the same car, but I
11 think we did arrive around the same time.

12 Q When you got to the White House and you
13 went inside, did you meet anybody in there?

14 A At some point we did. We met Mr. Margolis,
15 and we met Mr. Nussbaum and Mr. Sloan, Mr. Neuwirth,
16 Park Police, two Park Police detectives -- I believe
17 it was two -- I think Donald Flynn. I think I
18 mentioned the two attorneys from the Department of
19 Justice.

20 Q Where did you meet them?

21 A I think that it was probably in the --
22 well, I'm not positive. I don't know if we went

1 initially to the Old Executive Office Building or
2 into the west wing, but I can't say for certain where
3 we met.

4 Q After you met with these people that you've
5 described, what happened?

6 A Well, after -- I think it was a fairly
7 brief time -- we went to Vincent Foster's office, and
8 I remember at that point that the door was closed,
9 and it was opened -- I believe it was Mr. Flynn from
10 the Secret Service who opened the door -- and we all
11 stepped inside the office.

12 Q Did you do that before or after you
13 conducted interviews of the staff?

14 A That would have been after, I think. I
15 think that I spoke to that -- I know I interviewed
16 Betsy Pond and I believe that was before we went into
17 Mr. Foster's office.

18 Q So you arrive and in due course you meet
19 with Mr. Nussbaum, two attorneys from the Department,
20 Agent Salter and Park Police and Secret Service;
21 correct?

22 A Right.

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1 Q What's the first thing you do after that?

2 A I did the interview of Betsy Pond early on,
3 and I know one of the two attorneys, at least one of
4 the two White House attorneys was present.

5 Q Was that in the morning?

6 A I think so.

7 Q Was it soon after you arrived at the White
8 House?

9 A I believe so.

10 Q Where did it take place?

11 A It took place in kind of a conference room,
12 I believe.

13 Q How long was the interview?

14 A It may have been 20 to 30 minutes,
15 somewhere in that range.

16 Q And one of the White House assistant
17 counsel was present?

18 A Yes.

19 Q Did you invite that lawyer to be present?

20 A No.

21 Q Do you know how that lawyer came to be
22 present?

1 A Well, I do remember that he indicated he
2 would be sitting in on the interview.

3 Q Did anybody raise an objection to that?

4 A Not that I can recall.

5 Q Did the witness indicate one way or the
6 other that she wanted this person, this lawyer?

7 A I don't recall her indicating one way or
8 the other whether she wanted him present.

9 Q Did you want the lawyer present?

10 A Frankly, I didn't think I had a whole lot
11 of choice in the matter. I didn't object to it.

12 Q Why did you feel you didn't have a choice
13 in the matter?

14 A Because he indicated that he was going to
15 sit in on the interview, and so I didn't object.

16 Q At this point, you were interviewing people
17 in the White House counsel's office in order to
18 determine things about, among other things,
19 Mr. Foster's state of mind before he killed himself;
20 correct?

21 A Right.

22 Q Although at that point you didn't know if

1 he had killed himself?

2 A Right.

3 Q Is it fair to say at that point everybody
4 who worked regularly with Mr. Foster is someone who
5 would potentially have to be interviewed in terms of
6 conducting your investigation?

7 A Yes.

8 Q So that the assistant or associate White
9 House counsel who was present in the room was someone
10 who was a potential witness himself; correct?

11 A Yes.

12 Q Would you agree with me that it's not a
13 good idea to interview one witness in the presence of
14 another witness when you're conducting an
15 investigation?

16 A Yes.

17 Q Was that fact raised to this lawyer?

18 A I don't know whether that was raised by
19 Mr. Margolis or anyone else from the Department of
20 Justice. I don't recall whether that was raised at
21 that time.

22 Q But you didn't raise it?

- 1 A No.
- 2 Q But you were aware that there was a problem
- 3 having him there?
- 4 A I think it occurred to me that it would
- 5 probably be better if it were not done that way.
- 6 Q And the problem was not that he was a
- 7 lawyer, but the problem was that he was a potential
- 8 witness; correct?
- 9 A Right.
- 10 Q Did he speak at all in the course of the
- 11 interview?
- 12 A Not that I can recall.
- 13 Q Was the interview behind closed doors?
- 14 A I believe so, yes.
- 15 Q Did anybody come in?
- 16 A I can't remember anybody coming in, no.
- 17 Q Did Mr. Nussbaum come in?
- 18 A Not that I can recall.
- 19 Q Did the White House lawyer take notes?
- 20 A I don't remember.
- 21 Q I'm sorry. Was it Neuwirth or Sloan who
- 22 was the lawyer in there, if you recall?

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- 1 A You know, I made a note on my interview
- 2 notes of the people who were present, but at this
- 3 point, I can't recall whether it was -- it was one or
- 4 the other of those two, and I don't know which one.
- 5 Q Now, you were teamed up with someone else
- 6 for the interview?
- 7 A I think that one of the Park Police, right,
- 8 detectives was also present.
- 9 Q Was it Captain Hume?
- 10 A It may have been.
- 11 Q Was Clifford -- would it refresh your
- 12 memory if I read a sentence to you from Captain
- 13 Hume's report that says "Clifford Sloan took notes
- 14 throughout the interview." Does that refresh your
- 15 memory?
- 16 A The interview of Betsy Pond?
- 17 Q Yes.
- 18 A You know, I don't recall whether Sloan was
- 19 taking notes.
- 20 Q Does it help you recall that Sloan was
- 21 there?
- 22 A I knew that it was one or the other of

1 those two, yes.

2 Q Was there a point in the interview where
3 Bernie Nussbaum burst into the room and demanded to
4 know whether everything was all right?

5 A You know, I can't remember whether he did
6 that.

7 Q This is the interview in which Ms. Pond
8 indicated that at some point the day before in the
9 morning she had come in and had the impulse to
10 rearrange or straighten up the Foster office;
11 correct?

12 A Yeah, right. I remember in my notes that
13 she indicated that she came in to straighten up, as
14 if, I guess, it was something she did on a regular
15 basis. And she indicated that she thought better of
16 that, I guess, and decided to leave his office.

17 Q After the interview was over, what did you
18 do?

19 A I think it was probably only a short time
20 after that interview that we went into Mr. Foster's
21 office.

22 Q Didn't the entry into Mr. Foster's office

1 occur at approximately 1:15 in the afternoon?

2 A You know, I don't remember.

3 Q In fact, weren't you all waiting for
4 several hours to get into Vincent Foster's office?

5 A I know we waited for -- yes, we did. We
6 waited around for quite some time, but I don't know
7 exactly how long it was. But now that you've
8 refreshed my memory when you say we've waited around
9 for several hours -- I don't know if it was several
10 hours. I know that we waited.

11 Q Was this an unexpected delay?

12 A Yes, I believe it was.

13 Q Do you know what caused the delay?

14 A No, I don't, I don't.

15 Q Was there a dispute in the morning
16 concerning the manner in which the search of the
17 Foster office would be conducted?

18 A At some point, I did learn -- and I don't
19 know exactly who told me, but I did learn that the
20 way the search would be conducted would be that
21 Mr. Nussbaum would go through the documents and that
22 we would not be permitted to look at the documents.

1 Q Now, that was different from your
2 understanding before you came to the White House that
3 day about what was going to happen; correct?

4 A Yes.

5 Q Did you hear that on the morning of the
6 22nd there was a dispute between some of the --
7 couple of lawyers from the Department of Justice and
8 Mr. Nussbaum concerning this change in plans?

9 A Dispute between the White House attorneys
10 and Mr. Nussbaum?

11 Q Between the White House attorneys and the
12 Justice Department.

13 A It seems to me there was some dispute and
14 it seems to me that David Margolis voiced objections
15 to the way the search was to be conducted.

16 Q Who did he voice the objections to?

17 A I believe to Mr. Nussbaum.

18 Q What did he say?

19 (Pause.)

20 Go ahead.

21 A I'm not sure exactly where we were or
22 exactly when it happened, but my recollection is that

1 there was discussion between David Margolis and
2 Mr. Nussbaum as to the way the search was going to be
3 conducted.

4 Q And what did Mr. Margolis say?

5 A He objected to the way it was going to be
6 conducted. I think that he said something to the
7 effect -- I do remember that he and Mr. Nussbaum
8 seemed to be acquainted with each other because David
9 Margolis called him by his first name, Bernie, and he
10 said something like, Bernie, how are we supposed to
11 make a determination of what we have here? How are
12 we supposed to gain some kind of an understanding as
13 to his state of mind? I don't remember exactly, but
14 words to that effect. Nussbaum was adamant, however,
15 that we would not be permitted to look at the
16 documents in Foster's office.

17 Q Do you know whether at some point there
18 was -- Mr. Nussbaum indicated he was going to call
19 somebody to discuss this matter further?

20 A I don't remember whether he did that.

21 Q Did you learn whether he called the
22 Department of Justice and talked to the deputy

1 Attorney General?

2 A Who, Nussbaum?

3 Q Yes, Nussbaum.

4 A I don't recall whether he did that.

5 Q Did Margolis threaten to leave at one
6 point?

7 A I don't remember -- I don't recall
8 specifically if he threatened to leave.

9 Q Did you see him leave at some point?

10 A Not that I can remember.

11 Q Do you remember him going out to get a
12 cigarette and Mr. Nussbaum hurrying out after him?

13 A I don't remember.

14 Q Were you present for the entirety of the
15 discussion between Mr. Nussbaum and Mr. Margolis, or
16 did some part of the discussion take place away from
17 you?

18 A Some of the discussion could very well have
19 taken place away from where I was.

20 Q After you heard this discussion between
21 Mr. Margolis and Mr. Nussbaum, did you have a
22 conversation yourself with any of the law enforcement

1 people present about the way a change was going to be
2 conducted in the search?

3 A I don't remember having any other
4 discussion with any of the law enforcement people
5 there, no.

6 Q What was your recollection?

7 A I was surprised that it was being done that
8 way, and I felt uncomfortable that I might later be
9 asked to explain, well, if you're there to make a
10 determination as to whether there's something
11 suspicious here, why did you sit there and not look
12 at -- how could you make a determination by just
13 sitting there? I was uncomfortable with that, and I
14 was surprised that we were not permitted to look at
15 anything.

16 Q Did you consider leaving yourself?

17 A I think the thought crossed my mind, yes.

18 Q Why did you decide not to leave?

19 A Well, I had been instructed to go there,
20 and it was my impression that David Margolis was
21 representing the Department of Justice, and it was my
22 feeling that it wasn't my place to decide whether I

1 would stay or leave, and I think what I elected to do
2 was to follow Mr. Margolis's lead and just allow him
3 to deal with Mr. Nussbaum.

4 Q Were the Park Police annoyed? Did they
5 express annoyance?

6 A I believe so. I don't remember having any
7 specific discussion with either of those Park Police
8 detectives, but I believe that they were unhappy as
9 well.

10 Q Now, again, as you understood it,
11 Mr. Nussbaum himself was a significant potential
12 witness in terms of Mr. Foster's state of mind;
13 correct?

14 A He could have been, yes.

15 Q Was that one of the reasons you had a
16 problem with Mr. Nussbaum being the person who was
17 going to be making the cut as to who would get to see
18 the documents?

19 A I don't think I had a problem with him
20 going through the documents. The problem I saw was
21 he wasn't letting us look at them.

22 Q He would be making the decision?

1 A Correct.

2 Q And he was someone who was, in fact, a
3 potential witness?

4 A Right.

5 Q Would you go so far as to say at this point
6 he was a potential subject of the investigation?

7 A I don't think I considered that at that
8 point.

9 Q Had it crossed your mind at this point that
10 one of the things that was bothering Mr. Foster was
11 Mr. Nussbaum?

12 A Well, I think that a number of
13 possibilities may have occurred to me, that maybe
14 Mr. Foster had problems with his job at work, yes.

15 Q And in light of that, did it seem to you a
16 sound judgment to have his supervisor be the person
17 to decide what you would be able to see in the
18 investigation?

19 A I'm not sure how much I considered that at
20 the time, but again, I felt that the way the search
21 was conducted was not the way it should have been
22 done.

1 Q Now, there comes a point on that day that
2 you actually go into Mr. Foster's office?

3 A Right.

4 Q Tell us what happened when you all went
5 in.

6 A I do remember that Mr. Foster's desk was
7 back against the wall and it faced out into his
8 office. His office was not really real large, but
9 Bernard Nussbaum took the seat behind the desk. And
10 I remember that the two attorneys, Neuwirth and
11 Sloan, they stood behind Nussbaum, one on either side
12 kind of looking over his shoulder. I had a chair. I
13 don't recall whether everyone had a chair or some
14 people had to stand.

15 Q Did they bring chairs in?

16 A I think they may have brought some chairs
17 in. I remember I had a chair. I was sitting against
18 a wall to the side, and Scott Salter was straight
19 back from the desk but against the back wall, a short
20 distance from the desk. And then the other people,
21 the Park Police, they may have had seats in the room
22 as well. Again, it was crowded in there, and there

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1 may have been some people standing, other than the
2 two attorneys who stood behind Nussbaum.

3 Q Now, you were there with Mr. Salter from
4 the Bureau; correct?

5 A Correct.

6 Q And then Mr. Margolis and Mr. Adams were in
7 there?

8 A That's correct, yes.

9 Q Were there Park Police in there?

10 A Yes.

11 Q Were there Secret Service in there?

12 A Yes.

13 Q Was a Mr. Burton there from the White
14 House, Bill Burton?

15 A I'm not sure. I don't recall.

16 Q Did anybody come in and out during the
17 period of time that you were all in this room?

18 A I don't recall anybody coming in or out.

19 Q What was the total period of time you were
20 in the room?

21 A I'd say we were in there for an hour to
22 perhaps an hour and a half, two hours, something

1 along those lines.

2 Q Now, what happened after you got in the
3 room and everyone got situated? What happened?

4 A I think David Margolis sat in a chair
5 directly across from Bernard Nussbaum on the other
6 side of the desk. And after Nussbaum sat down, he
7 just began -- he'd take a -- there would be stacks of
8 papers all over the desks.

9 Q Were they stacks when you got there, or he
10 pulled stacks out of the drawers and filing cabinets?

11 A Well, I think there were some on the desk
12 and there were some in the drawers and some in the
13 cabinet. He would kind of take a stack of papers and
14 set them down, and he would look at them very
15 briefly, and he might make a brief comment about what
16 the particular document was.

17 Q Like what kind of comment?

18 A Well, he might say what we have here, this
19 is just a memo concerning a meeting in the Oval
20 Office scheduled for next week, okay, and place it on
21 the corner of the desk face down. Now, I'm not
22 saying that's exactly what it was. Just brief

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1 comments about okay, and this is something about a
2 meeting the First Lady has scheduled for some -- and
3 he'd place it face down, and it was pretty much that
4 way the entire time.

5 Q Did he hold the documents in his hand as he
6 read them?

7 A I believe so, yes.

8 Q Were they visible to you, to people sitting
9 in your perspective?

10 A Only the back. No.

11 Q Fair enough. Only the back.

12 A No, I couldn't see what was printed on the
13 document.

14 Q And he actually held it -- he didn't place
15 it flat. He actually held it up?

16 A I think so. He would take each one and
17 hold it briefly and place it face down.

18 Q So when he was done with it, he would turn
19 it face down?

20 A Face down.

21 Q Did he have little piles of things?

22 A He did.

1 Q Did he explain what the categories of the
2 piles were?

3 A I believe there were some categories like
4 some things that he may have considered personal and
5 other things that I guess were -- I don't know what
6 the other categories may have been. I don't
7 remember, but I think there was a category for
8 personal.

9 Q By the way, was Mr. Foster's personal
10 attorney there? Was a Mr. Spafford there or
11 Mr. Hamilton?

12 A I don't recall whether they were in the
13 room. I don't remember.

14 Q You don't remember?

15 A I don't remember.

16 Q And how long did he continue the process of
17 doing this?

18 A He continued it until he had gone
19 through -- again, he opened drawers and took papers
20 out. Whether there were other papers in the drawers,
21 I wouldn't know because I couldn't see.

22 Q So you couldn't even see or he didn't even

1 show you whether the particular drawers or cabinets
2 were cleared?

3 A Not that I can remember, no. I mean, I
4 think he indicated that they were.

5 Q Verbally?

6 A Right. He may not have -- my impression
7 was that he was removing documents from the drawers,
8 all the documents from the drawers and reviewing
9 them.

10 Q But he didn't allow anyone to look in the
11 drawer and see that it was empty?

12 A Right. I know I wasn't allowed to and I
13 don't believe anybody was allowed to other than,
14 again, the two White House attorneys.

15 Q Do you know whether he opened all the
16 cabinets in the room?

17 A I think he did open -- or go to shelves
18 where there were papers. I think he did pretty much
19 go through everything.

20 Q During this hour or so in Mr. Foster's
21 office, did anybody else besides Mr. Nussbaum speak?

22 A Yes.

1 Q Who?

2 A Well, I think there may have been -- I
3 believe there was some continued discussion between
4 Bernard Nussbaum and David Margolis.

5 Q Were they disagreeing about the process?

6 A I think that was the case, yes.

7 Q Was Mr. Margolis complaining about the
8 process?

9 A Yes, I believe he complained -- I don't
10 remember specifically, but he complained about the
11 process, yes.

12 Q Do you remember generally what his
13 complaint was?

14 A Generally, I believe it was that he felt
15 powerless to make a determination for himself as to
16 what was there because he wasn't permitted to look at
17 anything.

18 Q Was anybody logging the documents in any
19 form, noting down either the document by number or
20 date so there was a record of all the documents that
21 were being reviewed?

22 A Not that I can recall.

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1 Q No one was stamping them with numbers to
2 make sure they were continuously numbered?

3 A I don't believe so, no.

4 Q Did you take notes during this?

5 A No.

6 Q Did anybody take notes -- putting aside the
7 White House people, did anybody else take notes, do
8 you remember?

9 A I don't recall whether the other people
10 were taking notes.

11 Q Did the White House people take notes?

12 A Not that I can remember.

13 Q Did there come a point in time when
14 Mr. Nussbaum opened up a briefcase?

15 A Yes.

16 Q Tell us what happened there.

17 A I recall that there was a briefcase -- it
18 was somewhere behind the desk. I don't remember if
19 it was all the way up against the wall or it was up
20 against the desk, but I do remember there was a
21 briefcase, and I remember Bernard Nussbaum removing
22 documents from that briefcase. I believe he picked

1 it up, removed papers.

2 Q Did he put it on the desk?

3 A I don't remember if he put it on the desk
4 or if he put it in his lap or where he put it. But I
5 believe that he picked it up, removed papers,
6 documents from the briefcase, set them on the desk
7 and put the briefcase down.

8 Q Did he -- were you able to look inside the
9 briefcase when it was open and empty?

10 A No, I couldn't see inside it from where I
11 was.

12 Q Did he indicate in any way that he had
13 taken everything out of the briefcase?

14 A I don't remember whether he said, well,
15 that's everything or there's nothing left in here.
16 It was my impression that he had removed everything
17 from the briefcase. I understood it to be his intent
18 when he picked up the briefcase, was to take
19 everything out, and it was my impression that he had.

20 Q Did you see him look into the briefcase?

21 A You know, I don't remember whether he
22 pulled it apart and looked inside or made a careful

1 inspection of the inside of the briefcase, but it was
2 my impression that he had removed everything from the
3 briefcase and if there was anything else in it, it
4 seemed to me that he would have seen it.

5 Q Have you ever seen the inside of that
6 briefcase since that day?

7 A I've seen the briefcase, but I don't recall
8 whether I looked inside it, no.

9 Q What did he do when he pulled the papers
10 out of the briefcase?

11 A I think that he went through the same
12 process, if I remember correctly. He just went
13 through the same process with those documents that he
14 had with the others. He just reviewed them briefly
15 and placed them down on the desk.

16 Q Now, as he was putting documents face down
17 on the desk in piles, did the piles just continue to
18 grow, or did there come a point where he would
19 replace piles in the drawer, put them on the floor or
20 something?

21 A I'm not sure if he just moved them around
22 the desk or whether he actually took some and put

1 them back in the drawers. I don't remember.

2 Q Is there anything else you remember about
3 the way in which he conducted this operation?

4 A Well, the thing -- the one thing that
5 stands out most in my mind when I think about the
6 search, we kind of joked about it later on, was at
7 one point -- at some point we realized that we
8 weren't going to be permitted to look at anything,
9 and I think I remained seated pretty much the whole
10 time.

11 And at one point Scott Salter, who was
12 seated in the back, he stood up, and I looked and I
13 could see that he was just standing up to stretch and
14 to kind of -- I think he was tucking in his shirt and
15 just kind of stretching a little bit. And one of the
16 two attorneys, and I don't remember if it was
17 Neuwirth or Sloan, immediately kind of came to
18 attention and looked at Salter and said, excuse me,
19 agent, are you trying to look at the papers on the
20 desk and Salter said let's not get carried away here,
21 and then the attorney -- he didn't say anything more
22 about it.

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1 But I think that David Margolis did. I
2 think he kind of brought it up maybe another time
3 just to kind of make the point that it was
4 inappropriate to say and then the attorney, whichever
5 one of the two made the comment, he did kind of
6 apologize to Special Agent Salter afterwards by
7 saying, you know, I didn't mean anything by that.
8 But it was interesting.

9 Q Did Mr. Margolis say anything else that you
10 haven't described to Mr. Nussbaum during this
11 process?

12 A Other than what I mentioned, my general
13 recollection that he expressed his displeasure of the
14 way it was being handled. I don't recall any other
15 specific comments.

16 Q Let me ask you this: Did Mr. Nussbaum
17 appear to be reading each document, or was he looking
18 at them rather quickly?

19 A I don't think he was reading the entire
20 document, no. He was just kind of looking at them
21 briefly.

22 Q Was he opening up file folders?

1 A It seems to me he was.

2 Q Were there any file folders that he didn't
3 open up, but simply put on a pile?

4 A Not that I can recall.

5 Q After Mr. Nussbaum was done with this
6 process, what happened?

7 A Well, I think that shortly after we
8 finished -- he finished going through the desk, the
9 office, I believe that we left the White House after
10 a fairly short time. I don't think we stayed around
11 there too long.

12 Q After Mr. Nussbaum had finished the process
13 of going through the documents, did he give any of
14 the documents to somebody?

15 A I do recall there was some conversations
16 about some of the personal documents being turned
17 over to an attorney for the family, but I don't
18 remember whether that attorney was present. I don't
19 remember much more than that, but I do remember there
20 was that brief conversation of, well, we'll turn
21 these things over to the attorney and give it back to
22 the family, but again, I didn't see those documents.

1 Q Were any documents given to anybody from
2 the Department of Justice or any other law
3 enforcement personnel who were present in the room at
4 that point?

5 A Not that I can recall.

6 Q Was there any discussion about when or if
7 any documents would be given to someone from the
8 Department of Justice?

9 A I don't recall hearing any conversation to
10 that effect.

11 Q Was there discussion about how the room
12 would be secured after you all left following this
13 hour or so in Foster's office?

14 A I don't remember whether they talked about
15 securing the office.

16 Q Did Mr. Margolis ask to have the office
17 secured after you all left?

18 A I don't know.

19 Q So when you all left Vincent Foster's
20 office, was Mr. Nussbaum still in the office, or did
21 he escort you out?

22 A I can't remember. I don't recall.

1 Q Was anybody from the law enforcement group
2 allowed to remain in the office without Mr. Nussbaum?

3 A Not that I can recall, no.

4 Q Let me ask you this: Were you in that
5 office during the entire period of time that the law
6 enforcement group was there from the very beginning
7 to the very end?

8 A I believe so, yes.

9 Q During that entire period of time, did
10 anybody but Mr. Nussbaum and the two White House
11 attorneys look at any of the documents that were
12 being reviewed?

13 A Not that -- no, not that I'm aware of.

14 Q And the law enforcement group left with no
15 documents in hand?

16 A As far as I know, yes.

17 Q After you all left, did you do any further
18 interviewing in the White House?

19 A After we left Foster's office?

20 Q Yes.

21 A I don't believe that I did, and I'm not
22 aware of any other interviews that were done at that

1 point.

2 Q Did you have any discussion, or was there
3 any discussion in your presence after you walked out
4 of Mr. Foster's office about what had just gone on in
5 there?

6 A I don't recall any specific discussion.
7 Scott Salter and I had worked together for a long
8 time, though, and I'm sure that we may have had some
9 brief discussion outside, but I don't remember the
10 exact nature of that.

11 Q Did you hear Mr. Margolis make any comments
12 about it?

13 A I don't remember.

14 Q What happened next that day in terms of
15 this investigation or in terms of Mr. Foster's
16 death? Did you do any further investigation?

17 A I can't recall.

18 Q Did you all just leave the White House?

19 A I believe so.

20 Q Did Mr. Margolis leave with you?

21 A I believe that he did.

22 Q Did Mr. Adams?

1 A I believe so.

2 Q And did the Park Police?

3 A I believe that they did, yes.

4 Q Did the Park Police complain about what had
5 happened in Mr. Foster's office?

6 A I don't remember what was said. I think --
7 my recollection is that there was general feeling
8 that people were not happy with the way the search
9 was conducted.

10 Q So when we -- well, when you say "search,"
11 the only search of the office that occurred was that
12 that Mr. Nussbaum conducted; correct?

13 A Right. I call it a search, but it wasn't
14 really a search.

15 Q There was no law enforcement search?

16 A Right.

17 Q And it's fair to say no law enforcement
18 personnel supervised Mr. Nussbaum in his search;
19 correct?

20 A Correct.

21 Q Because no law enforcement personnel were
22 in a position to see what Mr. Nussbaum was looking

1 at; correct?

2 A Correct.

3 Q There was no chain of custody record made
4 of the documents; correct?

5 A Correct.

6 Q There was no other kind of documentation
7 concerning the review; correct?

8 A Correct.

9 Q You don't know where the documents -- how
10 the documents were secured after you left the office;
11 correct?

12 A That's correct.

13 Q When is the next time you participated in
14 anything to do with the Foster investigation?

15 A I really didn't participate in the Foster
16 investigation after that. It just so happened that I
17 was leaving the very next day to go on vacation. The
18 only thing that had anything to do with the Foster
19 investigation after that was I received a telephone
20 call while I was away on vacation from Scott Salter.
21 He told me that a note had been found in Mr. Foster's
22 office and he asked me -- he said do you remember

1 seeing anything. And I said no, I didn't see
2 anything, and that was pretty much all he asked me.
3 Told me about it and asked me if I had seen anything,
4 and I told him no.

5 Q When did you get back from vacation?

6 A Oh, I was gone for about three weeks.

7 Q Were you involved in any of the
8 investigation in the next month or so concerning the
9 note that had been found?

10 A No.

11 Q You didn't participate in that
12 investigation about the way in which the note was
13 found?

14 A No.

15 Q Was that your last -- was July 22nd your
16 last involvement in the Foster investigation, apart
17 from times you've testified or been interviewed?

18 A Yes.

19 Q Have you ever figured out what on earth you
20 were supposed to be doing in that office on July
21 22nd, in Vincent Foster's office?

22 A As I indicated, before I went there, I

1 thought we would have a role in the search. No, at
2 this point, really I had no reason for being there, I
3 guess. I didn't accomplish anything. I didn't do
4 anything. I didn't look at anything, so I really may
5 as well have not been there, I guess.

6 Q Putting aside any interviews or testimony
7 you've given in the context of a formal investigation
8 after July 22, have you had any conversations with
9 anybody about the events of July 22nd after the fact?

10 A I think only with Scott Salter.

11 Q Do you remember what the conversations
12 were?

13 A Only -- I guess we may have just talked
14 about the fact that we weren't permitted to
15 participate in looking at the documents, and I think
16 when I came back from vacation, I may have asked him
17 about the note that was recovered and where it was
18 recovered and so forth. I think we may have spoken
19 briefly about that.

20 Q During the course of this process
21 Mr. Nussbaum was conducting in Mr. Foster's office on
22 the 22nd of July, do you remember an occasion when he

1 picked up a Xerox copy of a newspaper article and
2 claimed that it was a privileged communication?

3 A I don't recall that.

4 Q Do you remember Mr. Margolis arguing with
5 Mr. Nussbaum about whether a particular document
6 could be considered privileged?

7 A I don't recall specifically. I just recall
8 that there was some -- there was conversation going
9 back and forth between David Margolis and Bernard
10 Nussbaum wherein Margolis was expressing his
11 displeasure or disagreement with things, but I don't
12 remember what specifically they were talking about at
13 that point.

14 MR. FISHMAN: Can we take a five-minute
15 break.

16 (Recess.)

17 BY MR. CHERTOFF:

18 Q You didn't take any notes regarding the
19 search process itself?

20 A Right.

21 Q Did you write any reports about the search
22 process?

1 A No.

2 Q Did you later report to any of your
3 superiors about the search process?

4 A No.

5 Q Do you remember seeing Mr. Nussbaum looking
6 at any computer disks?

7 A I don't.

8 Q Was there a request for telephone logs that
9 you had made, meaning that you collectively had made
10 that would have pertained to Foster's activities?

11 A I don't recall.

12 Q Do you remember him turning over telephone
13 logs?

14 A No.

15 Q Did Mr. Nussbaum review trash?

16 A I believe he did. It seems to me that he
17 looked in the trash.

18 Q Was it a trash bag or a trash container?

19 A I don't recall what type of receptacle it
20 was.

21 Q Where was it, relative to where he was
22 sitting in the office during his review?

1 A I can't say for certain, but it seems to me
2 there was some kind of a trash receptacle behind the
3 desk.

4 Q Did he spill the trash out or pull it out,
5 or did he just peer in?

6 A I don't remember.

7 Q Do you remember seeing any torn paper?

8 A No.

9 Q Do you know what a burn bag is?

10 A I've heard of it.

11 Q Do you know what a burn bag looks like, at
12 least in the White House?

13 A I don't believe so.

14 Q Did he say anything about looking at a burn
15 bag?

16 A Not that I can remember.

17 Q Did you see a striped -- an orange and
18 white diagonally striped bag in the office?

19 A I can't recall seeing such a thing.

20 Q Did you see him looking in a paper bag of
21 some kind?

22 A I don't remember.

1 Q At the conclusion of this review by
2 Mr. Nussbaum when everyone was leaving, did
3 Mr. Margolis warn Mr. Nussbaum not to remove any
4 documents from the room?

5 A I don't know.

6 Q You didn't hear that?

7 A I don't recall hearing that.

8 Q Did Mr. Nussbaum make a comment about not
9 being able to keep the room secure any longer?

10 A I don't know.

11 Q Did you -- at the time you first arrived at
12 Mr. Foster's office, was there a Secret Service agent
13 on guard at the door?

14 A I can't say for certain.

15 Q When you left Mr. Foster's office, did
16 someone give Mr. Nussbaum a key or keys to the
17 office?

18 A I don't know.

19 Q Did you have occasion to review a teletype
20 that was prepared regarding the question of the
21 search at Mr. Foster's office?

22 A I may have reviewed that. I'm not sure if

1 that's --

2 Q Did you prepare a teletype in relation to
3 your activities on the 21st and 22nd?

4 A No.

5 Q Let me show you what's been identified to
6 us as FBI 128, 129 and 130 and ask you if you've seen
7 this before?

8 A I've seen this.

9 Q When did you first see it?

10 A I think I just first saw this within the
11 past few days.

12 Q So you didn't review this or see it at the
13 time of your visit to Mr. Foster's office?

14 A No, I don't believe so.

15 Q And you didn't see this in 1993?

16 A Not that I can recall, no.

17 Q Can you tell from looking at the document
18 who prepared it?

19 A Well, I do see John Danna's initials here,
20 but I don't think I can say whether it was prepared
21 by John Danna or perhaps by Scott Salter where he was
22 the case agent.

1 Q Scott Salter was the case agent on the
2 case?

3 A He was the case agent.

4 Q So he had the responsibility for preparing
5 whatever formal reports had to be generated?

6 A Yes, he was the lead agent, so I don't know
7 whether this was prepared by John Danna or Scott. I
8 do see John's initials on here.

9 Q Do you recognize anybody else's initials or
10 writing on the document?

11 A I think where it says "note corrections," I
12 think that's John Danna's writing. PLJ, that's the
13 squad secretary in our office, in our squad, and I
14 just see her initials here, I guess, for these
15 corrections that were made when it was first typed.
16 I don't see any other initials, other than those,
17 though.

18 MR. CHERTOFF: Okay. I'm done.

19 MR. COLE: Do you want to take a break or
20 shall I proceed with my questions?

21 THE WITNESS: I'm fine.

22 EXAMINATION

1 BY MR. COLE:

2 Q Give me just a moment to turn back to the
3 beginning of my notes. Agent Condon, as Mr. Chertoff
4 indicated earlier, my name is Lance Cole. I'm
5 counsel to the Democratic members of the Committee,
6 and I'd like to ask you a few questions that go over
7 some of the same subject matters that Mr. Chertoff
8 has covered with you. In doing that, in order to try
9 to be efficient, I may repeat or state my
10 understanding of your prior testimony. If in doing
11 so, I misstate or mischaracterize your testimony,
12 please tell me so we have an accurate transcript here
13 of your recollections.

14 If I could direct your attention back to
15 July 20, 1993, which I believe you recalled -- you
16 testified you recalled as the date of Vincent
17 Foster's suicide?

18 A Right.

19 Q Can you tell me, do you recall when you
20 learned of Mr. Foster's suicide?

21 A You know, I don't recall if I may have
22 heard it on the news that night. I don't recall

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1 exactly when I first learned of it, no.

2 Q Do you recall at the time on July 21st when
3 you were contacted or Agent Salter was contacted by
4 Agent Danna, were you aware of Mr. Foster's suicide
5 at that time?

6 A I think at that point I was.

7 Q And do you recall what Agent Danna asked
8 you to do when he asked you to come to the White
9 House, what purpose he asked you to come to the White
10 House for?

11 A I think when he first asked us to meet him
12 there, it was just that. I mean, he asked us -- meet
13 me at the White House, meet me at the southwest gate
14 and I don't recall him specifically telling me, but
15 my recollection is that we were there just to render
16 assistance to the Park Police because they were the
17 lead agency in the death of Vincent Foster because it
18 was -- it had occurred on U.S. Park territory, I
19 guess.

20 Q Did you have an understanding of why the
21 FBI would have been requested to assist the Park
22 Police in that matter?

1 A My understanding at that time was if a
2 member of the President's staff was to be murdered,
3 assaulted or killed, then the FBI would open an
4 investigation.

5 Q Did you have any understanding as to
6 whether the FBI would open an investigation if a
7 member of the President's staff had committed
8 suicide?

9 A I didn't think that there would be an open
10 FBI investigation for a suicide.

11 Q And when you and Agents Salter and Danna
12 arrived at the White House on July 21st, what was
13 your understanding as to whether or not Mr. Foster's
14 death had been a suicide?

15 A I think it was my impression at that time
16 that it was a suicide.

17 Q Would it be fair to say that your purpose,
18 then -- and by "your," I mean you and the other FBI
19 agents who went to the White House -- your purpose
20 was to confirm that Mr. Foster's death was a suicide?

21 A Well, to confirm that it was a suicide or
22 to confirm that it was not, that it was a homicide.

1 Q So you were visiting the White House on
2 July 21st in an investigative capacity as a law
3 enforcement officer; is that correct?

4 A Yes.

5 Q Was Mr. Foster's office at the White House
6 a crime scene?

7 A Not that I was aware of.

8 Q Were you and the other agents treating it
9 as a crime scene at that time?

10 A No.

11 Q Did you have a search warrant?

12 A No.

13 Q Did you have a subpoena to enter the office
14 or take documents from the office?

15 A No.

16 Q Did you understand that you had any legal
17 right of access to that office?

18 MR. CHERTOFF: Calls for a legal
19 conclusion.

20 MR. COLE: I'm asking his understanding.

21 MR. CHERTOFF: I understand. I'm putting
22 the objection on the record.

1 You can answer if you know what the answer
2 is.

3 THE WITNESS: Would you repeat the
4 question?

5 BY MR. COLE:

6 Q My question was, did you have any
7 understanding as to whether or not you had a legal
8 right of access to the office on that date?

9 A I don't believe I had any understanding of
10 that at that point.

11 Q If you had been granted access to the
12 office on that date, what would you have expected to
13 do?

14 A I think, only as I indicated earlier, that
15 we would look at documents to see if perhaps there
16 was a suicide note or something to indicate that he
17 had been murdered.

18 Q How would you have done that, had you been
19 granted access to the office?

20 A We probably would have looked at the
21 documents in the office.

22 Q Would there have been -- strike that.

1 Would you have looked at every document in
2 the office?

3 A Probably, yes.

4 Q Would you have expected to do the same
5 thing if you had been investigating the suicide or
6 apparent suicide of a private individual who had an
7 office?

8 MR. CHERTOFF: I have to object because now
9 there's like a double hypothetical here.

10 Answer if you can.

11 MR. COLE: I'm trying to get an
12 understanding of what his purpose was in going to the
13 Foster.

14 MR. CHERTOFF: You're really asking him to
15 suppose what he might have done if some hypothetical
16 things had happened. If you want to ask him what his
17 policy or practices were, it would be more useful,
18 but I'm not going to stop him from answering.

19 MR. COLE: Let me see if I can clarify the
20 question, then.

21 BY MR. COLE:

22 Q If you were investigating the suicide of a

1 private individual, what would you expect to do with
2 regard to that individual's office?

3 A Well, I wouldn't normally, in my capacity
4 as an FBI agent, investigate a suicide of a private
5 individual, but I guess that if I thought I was
6 investigating a suicide, I would probably look for a
7 suicide note.

8 Q You would look for a suicide note in the
9 office?

10 A That would be one of the main things I
11 would be interested in, yes.

12 Q If an agent of the FBI had committed
13 suicide within the jurisdiction of the District of
14 Columbia Police Department, would you, as an FBI
15 official, permit the District of Columbia Police
16 Department to inspect the agent's office?

17 A His office?

18 Q Yes, his office at the FBI building,
19 whatever building.

20 Go off the record for a moment.

21 (Discussion off the record.)

22 THE WITNESS: If an agent of the FBI were

1 to commit suicide, I think what would probably happen
2 would be the police department and the FBI would
3 conduct a joint investigation. And I think that both
4 agencies would be permitted to look at documents
5 unless there were documents that related, I guess, to
6 national security matters or something. In that
7 instance, a determination would have to be made
8 whether there were such items and they would not be
9 shown. In an agent suicide, there would be a joint
10 investigation.

11 BY MR. COLE:

12 Q When you say a determination would be made
13 as to whether they would be shown to the police, do
14 you have a view as to who would make that
15 determination?

16 A Well, it wouldn't be made by the case
17 agent. It would be made by a supervisor of some
18 sort.

19 Q An FBI supervisor?

20 A Or perhaps a Justice Department official.
21 I'm not sure who would make the ultimate
22 determination.

1 Q But not a D.C. police officer in our
2 hypothetical?

3 A Right.

4 Q Directing your attention to the search,
5 which I think is the term we've generally used,
6 understanding that that may not be the best way to
7 describe it in your view, the search that occurred on
8 July 22nd in Mr. Foster's office, did you or the
9 other law enforcement officials present ask to take
10 anything with you at the conclusion of the search?

11 A Not that I can recall, no.

12 Q Do you recall whether Mr. Nussbaum was
13 wearing glasses during that search?

14 A No.

15 Q Do you have any general recollection of
16 whether he was wearing glasses on that day,
17 eyeglasses?

18 A I don't.

19 Q And so I guess if I ask if you have any
20 recollection whether he was wearing eyeglasses when
21 he looked in the briefcase, the answer would be the
22 same?

1 A Yes, I don't know.

2 Q I'd like to turn for a moment to the
3 interview that you conducted on July 22 of Betsy Pond
4 in the White House. I believe you testified that one
5 of the junior attorneys from the White House
6 counsel's office sat in on that interview?

7 A That's right.

8 Q And do you recall which attorney that was?

9 A I'm not positive, no. I know that it was
10 either Steve Neuwirth or Cliff Sloan.

11 Q Before that interview commenced, did anyone
12 raise any objection to their sitting in on the
13 interview?

14 A I can't recall.

15 Q I'm not trying to be repetitive because my
16 recollection is that you testified that you did not
17 raise an objection. I'm just trying to determine --

18 A To the best of my recollection, I did not
19 raise an objection, and I don't recall whether anyone
20 else did either.

21 Q Did the attorney interfere with your
22 interview with Ms. Pond in any way?

1 A Not that I can recall, no.

2 Q Do you have any recollection of the
3 attorney prompting her recollection during the
4 interview as to when she last saw Mr. Foster?

5 A I don't remember him prompting her, no.
6 She told me to the best of her recollection when she
7 had seen him last, but I don't remember him prompting
8 her in any way.

9 Q When did she tell you she had seen him
10 last?

11 A I believe that she had seen him on the day
12 that he died. She told me that around lunchtime that
13 day he asked her to get him some lunch. He asked her
14 to get him some lunch, which she did, and she said
15 after he ate his lunch, he left and put on his coat
16 and left, and I believe that was the last time she
17 saw him.

18 Q I realize you've testified that you can't
19 recall which of the two attorneys sat in on the
20 interview. Recognizing that, did you have any
21 knowledge of whether either of those attorneys worked
22 directly with Mr. Foster?

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1 A I don't know how they worked with
2 Mr. Foster.

3 Q Did you know how many attorneys were in the
4 White House counsel's legal office at that time?

5 A No.

6 Q Did you know who reported to Mr. Foster at
7 that time?

8 A No.

9 Q Did you know who reported to Mr. Nussbaum
10 at that time?

11 A No.

12 Q Did you have any reason at that time to
13 believe that that particular attorney might be a
14 witness with respect to Mr. Foster's suicide?

15 A I don't think it really occurred to me at
16 that time that he was a witness to the suicide, no.

17 Q Did you have any reason to believe at that
18 time whether Mr. Nussbaum was a potential witness
19 with respect to the suicide?

20 A I don't think that occurred to me either,
21 no, at that time.

22 Q I apologize for jumping around, but I'm

1 trying not to repeat all of your prior testimony
2 here. If I could once again direct your attention to
3 the search that took place on July 22nd and
4 specifically, the discussion that you testified to
5 immediately prior to that search involving
6 Mr. Nussbaum and Mr. Margolis. What can you tell us
7 about the tone or tenor of that discussion?

8 A I can only tell that you the brief exchange
9 or exchanges that I do recall between Bernard
10 Nussbaum and David Margolis, the tone was that
11 Margolis was expressing his disagreement with the way
12 that the search would occur, the search would be
13 conducted. I don't recall whether I was present in
14 Mr. Nussbaum's office prior to the search or during.
15 I believe there was a brief meeting, and I don't
16 recall if I was in the office for that or I was in
17 the outer waiting area.

18 I only can tell you that early on just
19 prior to Nussbaum beginning to go through the
20 documents and perhaps early on when he first started
21 going through them that David Margolis indicated that
22 he was not satisfied with the way the search was

1 going to be conducted, basically that he wasn't being
2 permitted to look at anything.

3 Q Did Mr. Margolis appear to be angry?

4 A He didn't lose his temper that I can
5 recall.

6 Q Did he raise his voice?

7 A Not that I can recall.

8 Q Did Mr. Nussbaum raise his voice?

9 A Not that I can recall, no.

10 Q Do you recall whether Mr. Nussbaum appeared
11 angry?

12 A No, I don't.

13 Q Was it your understanding that Mr. Margolis
14 proceeded in the manner that Mr. Nussbaum had
15 suggested, or was it your impression that
16 Mr. Margolis objected and that Mr. Nussbaum proceeded
17 over Mr. Margolis's objection? And I apologize for
18 the compound question.

19 A Well, it would be my impression -- it was
20 my impression that Mr. Nussbaum elected to proceed in
21 spite of Mr. Margolis's objection.

22 Q So it was your impression that no agreement

1 was reached between the two of them?

2 A I don't recall there being -- I don't
3 recall there being an agreement made at some point.

4 Q Did anyone other than Mr. Margolis voice
5 any objections to that procedure?

6 A I don't remember anybody else objecting.

7 Q I believe you testified you considered
8 leaving but decided to follow Mr. Margolis's lead?

9 A Right.

10 Q Did you make any comments or statements
11 that indicated you were considering leaving?

12 A No.

13 Q Did anyone make any comments or statements
14 that they were considering leaving?

15 A I don't remember whether anyone
16 specifically said anything.

17 Q And at the point when you testified that
18 Agent Salter stood and one of the White House
19 attorneys -- and I don't want to put words in your
20 mouth, but my recollection is you said asked him to
21 see if he was looking at the documents on the desk.
22 Do you recall that?

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1 A Yes.

2 Q You testified that the White House attorney
3 later apologized to Mr. Salter.

4 A Yes. My recollection is he kind of pulled
5 him aside or stopped him as we were leaving and said
6 something to the effect that he apologized or he was
7 sorry. He didn't mean any harm or words to that
8 effect. He did apologize.

9 Q And my recollection is you also testified
10 that Mr. Margolis made some comment about the
11 incident; is that correct?

12 A Yes.

13 Q Did that occur before or after the White
14 House attorney apologized?

15 A Before.

16 Q Do you recall what Mr. Margolis said?

17 A Not exactly. But as I indicated, Special
18 Agent Salter said something about let's not get
19 carried away, and I think David Margolis may have
20 repeated that or something to that effect, just to
21 kind of -- I don't know why.

22 Q Was it your impression that the White House

1 attorney was serious in what he said, or was it a
2 joking comment that Agent Salter took seriously? Do
3 you have an impression?

4 A It was my impression that he made the
5 comment seriously. He seriously seemed to think that
6 Agent Salter was trying to look at the documents. He
7 was serious when he said it.

8 Q And do you recall what he said when he
9 apologized later to Mr. Salter?

10 A Not exactly, but he just indicated sorry, I
11 didn't mean any harm or something to that effect. I
12 don't remember exactly his exact words.

13 Q Did you have any subsequent conversations
14 with Agent Salter about that event?

15 A I think we joked about it, but that was
16 about it.

17 MR. COLE: I don't have anything further.

18 MR. CHERTOFF: Just a couple questions.

19 EXAMINATION

20 BY MR. CHERTOFF:

21 Q Mr. Cole asked you some questions about
22 whether you had a search warrant or a subpoena. When

92

1 you left the White House on July 21st, it was your
2 impression that you were going to be able to come
3 back the next day and conduct a law enforcement
4 search of Mr. Foster's office; correct?

5 A Yes.

6 Q Had you been told on July 21st that you
7 would not be allowed to search the office, you would
8 have been able or someone else would have been able
9 to obtain a subpoena for the next day; correct?

10 MR. COLE: I think that calls for a legal
11 conclusion.

12 MR. CHERTOFF: Fine, but he can still
13 answer.

14 THE WITNESS: Well, it would have been my
15 feeling at that time that it wouldn't have been my
16 place, but it would have been up to perhaps Justice
17 Department attorneys and FBI officials to decide how
18 to proceed.

19 BY MR. CHERTOFF:

20 Q There would have been an opportunity of
21 several business hours between the beginning of the
22 next business day and 1:00 in the afternoon to obtain

1 a subpoena; correct?

2 A Yes.

3 Q Do you know what a forthwith subpoena is?

4 A Ordering the documents be produced
5 immediately.

6 Q You were asked some questions about what
7 you would do if you were investigating a suicide.
8 When you were in the White House on July 22nd, was
9 there an investigative conclusion as to whether there
10 was a suicide in the case or a homicide?

11 A Well, I'm not sure that there was any kind
12 of a conclusion, but I think the general feeling was
13 that it was a suicide. I don't think -- there was no
14 evidence that it was anything other than a suicide
15 that I was aware of.

16 Q And you were investigating in order to form
17 a final conclusion; correct?

18 A Yes.

19 Q At the beginning of the day on the 22nd
20 when the law enforcement people were assembled, did
21 anybody say well, this case is over with, let's go
22 home and not bother?

1 A No.

2 Q And present at that time on the 22nd to
3 carry out what you all thought was going to be a law
4 enforcement search were two senior officials of the
5 U.S. Department of Justice; correct?

6 A Yes.

7 Q Two Federal Bureau of Investigation agents;
8 correct?

9 A Yes.

10 Q And Park Police authorities; correct?

11 A Yes.

12 Q And of course, you were not the D.C.
13 police. You were the federal law enforcement
14 authorities; right?

15 A Right.

16 Q You were also asked a question by Mr. Cole
17 about if an FBI agent committed suicide, whether the
18 D.C. police would conduct the investigation
19 themselves. If an FBI agent were to have committed
20 suicide, would that agent's superior conduct the
21 investigation or would the agency call for someone
22 from another section to conduct the investigation?

1 A I think that the squad that would be
2 charged with making -- looking into that would
3 probably be the squad that I'm assigned to, along
4 with the D.C. homicide police personnel, and they
5 would do that. It probably wouldn't necessarily be
6 the supervisor -- it wouldn't be the supervisor, the
7 direct supervisor of the agent.

8 Q Who had committed the suicide?

9 A Right.

10 Q Finally you were asked a question about
11 whether Mr. Nussbaum was wearing eyeglasses when he
12 looked into the briefcase. During this hour to hour
13 and a half that Mr. Nussbaum was conducting this
14 review, did he appear to be reading documents?

15 A Yes.

16 Q Did he express any difficulty in seeing or
17 in being able to read the material he was reviewing?

18 A No.

19 MR. CHERTOFF: I'm done.

20 MR. COLE: I think I only have two final
21 questions, although one of them perhaps I should
22 break into two parts for clarity.

1 EXAMINATION

2 BY MR. COLE:

3 Q Directing your attention back to July 21st
4 when you first visited the White House, did you have
5 any reason at that time to believe that Mr. Foster's
6 death was anything other than a suicide?

7 A I had no reason to believe that, no.

8 Q And were you aware of anyone else in the
9 Federal Bureau of Investigation having any reason to
10 believe it was anything other than a suicide?

11 A No.

12 Q And I would ask the same questions on July
13 22nd when you returned.

14 A My answers would be the same.

15 Q And finally, on the subject of
16 Mr. Nussbaum's eyeglasses and whether or not he was
17 wearing them during the search, do you recall
18 whether -- do you recall whether or not he was
19 wearing eyeglasses?

20 A I don't.

21 Q Do you recall ever seeing Mr. Nussbaum with
22 eyeglasses pushed on top of his head as people who

1 wear eyeglasses often do?

2 A I really don't recall.

3 MR. COLE: Thank you. I have no further
4 questions.

5 MR. CHERTOFF: Nothing for me. We will let
6 you know through the Department, as soon as we can,
7 if and when we're going to need you to testify.

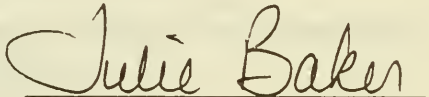
8 THE WITNESS: All right.

9 MR. CHERTOFF: Thanks a lot.

10 (Whereupon, at 3:34 p.m., the deposition
11 was concluded.)

12
13 -----
14 DENNIS M. CONDON
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I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

**DEPOSITION OF JOHN K. DANNA
IN RE: S. RES. 120**

WEDNESDAY, JUNE 28, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JOHN K. DANNA, called for examination pursuant to notice of deposition, at 9:45 a.m. in Room 640-A of the Hart Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

EVERETT C. JOHNSON, JR., Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

PAUL J. FISHMAN, Esq.
U.S. Department of Justice
Room 4222
Tenth Street & Constitution Avenue, NW
Washington, DC 20534
and

ANDREA M. SIMONTON, Esq.
Deputy General Counsel
Federal Bureau of Investigation
Tenth Street & Pennsylvania Avenue, NW
Washington, DC 20535
On behalf of the Deponent.

ALSO PRESENT: CHARLES J. SGRO
TASHIA URLAND

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P R O C E E D I N G S

Whereupon,

JOHN K. DANNA

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. JOHNSON:

Q Good morning, Mr. Danna. Did I say that correctly?

A Danna.

Q We've met briefly off the record, but let me take a few short seconds on the record to tell you who I am and why we're here this morning. My name is Everett Johnson, and I'm one of the attorneys working for the Special Senate Committee investigating Whitewater and related matters.

Also present this morning is Mr. Kravitz, who you've met off the record, and a couple of his colleagues working for the same committee.

What brings us here this morning is Senate Resolution Number 120, which constitutes the special committee and authorizes that committee to

4

investigate certain matters relating generally to Whitewater. In particular this morning, our topic of inquiry is the investigation into Vince Foster's death and most particularly the handling of the documents in or around Mr. Foster's office at the time of his death.

Let me ask you preliminarily whether you've ever had your deposition taken before, and I don't mean necessarily on this topic, but just ever?

A No.

Q I'll spend a minute on a couple of procedural issues that will make the whole thing faster for all of us. Ms. Baker is our shorthand reporter, and she'll make a verbatim transcript of the questions that I or Mr. Kravitz may ask you and the answers to those questions. And in order for her to do her job, it's important that we not speak at the same time. So if you'll allow me to finish asking the question, even though you may know what the question is, before you offer an answer, it will make her job easier.

At the same time, it's important that you

1 respond verbally to questions, not with gestures or
2 other forms of body language. She has no way to
3 record those, so if you'll try to remember to say yes
4 or no, if that's an appropriate response.

5 I'll try and be just as clear as I can
6 possibly be in these questions. I will sometimes
7 fail, but let me just tell you in advance there's
8 nothing in any of our questions that's designed to be
9 deceitful or tricky, misleading in any way. So if
10 there's some point in time when you don't understand
11 a question, I'll count on you a little bit to tell me
12 that it doesn't make sense to you, and we'll work it
13 around to something that does make sense.

14 If you need to confer with your attorneys
15 at any time, feel free to do that. And if you'd like
16 to take a break at any time, just say so, and we'll
17 always do that if that's something you'd like to do.
18 Any questions so far?

19 A No, I have no questions.

20 Q Okay, great. In preparing to testify here
21 today, did you meet with anyone to discuss your
22 deposition and the testimony you may give?

1 A Yesterday.

2 Q Who did you meet with?

3 A Mr. Fishman, Ms. Simonton and, I'm sorry,
4 Mr. -- the third individual at this table.

5 Q Mr. Sgro?

6 A Sgro.

7 Q Anyone else present during that meeting?

8 A No.

9 Q And I take it that you have not met in
10 connection with this deposition with any
11 representatives of the White House? For example,
12 someone from the White House counsel's office?

13 A No.

14 Q Could you take a moment and describe your
15 employment history with the FBI?

16 A Came in in January of '72 in the Washington
17 field office, where I'm currently assigned. October
18 of '88 I was made a supervisory agent of the violent
19 crime squad, which is called C-4, which is a
20 traditional violent crime squad, and that's where I
21 am currently.

22 Q And I may have misheard the year. Did you

1 say '78 or '88?

2 A '88, October '88.

3 Q And you are physically stationed in
4 Washington, D.C.; is that correct?

5 A 1900 Half Street, Southwest.

6 Q To whom do you report?

7 A I have an ASAC, which is assistant special
8 agent in charge, my immediate supervisor. And I also
9 have a special agent in charge, an SAC. I report on
10 a daily basis to those two people.

11 Q What are their names?

12 A Currently it's Jack Daulton, D-a-u-l-t-o-n,
13 is the ASAC, and Bill Megary is the SAC.

14 Q Could you spell Mr. Megary's last name?

15 A M-e-g-a-r-y.

16 Q Back in 1993, you were about to tell me --

17 A It was Mr. Desarno, D-e-s-a-r-n-o, was my
18 ASAC, and Bob Bryant was the -- I think he was an
19 SAC -- yes, he was an SAC at that time. He was
20 subsequently made ADIC, assistant director in charge
21 in WMFO, Washington metropolitan field office. It's
22 A-D-I-C.

1 MR. JOHNSON: I'm not going to say anything
2 at all.

3 MR. KRAVITZ: He's speechless for the first
4 time ever.

5 (Laughter.)

6 (Discussion off the record.)

7 BY MR. JOHNSON:

8 Q The majority of my questions this morning
9 will surround the time period at or around the time
10 period at or around Vincent Foster's death, July
11 1993. Sometimes because I'm not careful enough, I
12 forget to state that in the question. Generally
13 speaking, if the question is ambiguous, why don't you
14 assume we're talking about the 1993 time period. And
15 if there's a reason to vary from that assumption,
16 I'll try and state that in the questions.

17 Just one or two sort of background points.
18 What generally are the responsibilities for the
19 violent crime squad?

20 A Classifications are kidnappings,
21 extortions, bank robberies, armored car robberies.
22 The traditional violent crime, not including gang --

1 drug gang investigations, which is handled by another
2 violent crime squad, and cold case homicide cases,
3 which are handled by another violent crime squad. I
4 have the traditional things.

5 Included also in that area are assault
6 cases on members of Congress, Supreme Court, and we
7 also have the Presidential assassination statute on
8 my squad, which is Title 18, section 1751.

9 Q And I want to cover this in some detail in
10 a few moments, but I take it that you personally were
11 assigned to some duty in connection with the
12 investigation into Mr. Foster's death; is that
13 correct?

14 A Only as a supervisor of the squad that was
15 called by the Park Police.

16 Q I'll come back to that, but my general
17 question is why was your squad or the squad that you
18 were supervising involved at all in Mr. Foster's
19 death, jurisdictionally?

20 A You want to know right now?

21 Q Yes.

22 A That morning after Mr. Foster -- the 20th,

10

1 the morning of the 21st, around 10:00 I got a call
2 from Captain Hume, H-u-m-e, in the Park Police, and
3 he had called and told me that he was in the White
4 House, in fact, in the Old Executive Office Building,
5 investigating the suicide of Mr. Foster. And he
6 requested that I come over and hook up with him and
7 provide him some assistance in a cooperative effort.
8 And because of that, I told him I would, and also
9 called two of my agents that were out on the street
10 on other matters and asked them to meet me over
11 there.

12 Q Prior to that call from Captain Hume of the
13 Park Police, what information, if any, did you have
14 regarding Mr. Foster's death?

15 A I don't recall specifically what I observed
16 or heard in the media. My only source of information
17 was what I heard on TV or read in the paper that
18 morning. I had no other information.

19 Q You had no official information about it?

20 A Absolutely not.

21 Q And you had not been contacted by anyone
22 with respect to Mr. Foster's death in any official

1 capacity before Captain Hume called you; is that
2 correct?

3 A That is correct.

4 Q Generally speaking -- I still want to cover
5 a couple of background things. Generally speaking,
6 had you personally been involved in any
7 investigations that required your presence within the
8 White House complex prior to July 21, 1993?

9 A I have been on another squad at one time,
10 and we were during the Carter Administration. We
11 were interviewing Carter Administration officials,
12 but that was the only period of time.

13 Q If there's anything remotely confidential
14 about that investigation, you might caution your
15 counsel, and we'll make sure that we don't touch on
16 anything that we shouldn't here. But I want to ask
17 you something about the procedures in that
18 investigation. When you interviewed officials, did
19 you physically go into the White House?

20 A Yes.

21 Q Did you physically go into the west wing?

22 A Yes.

1 Q Did you ask to review any documents while
2 in the west wing during that investigation?

3 MR. FISHMAN: Can we go off the record for
4 a second?

5 MR. JOHNSON: Sure.

6 (Discussion off the record.)

7 BY MR. JOHNSON:

8 Q I'll strike that question.

9 Mr. Danna, let me ask you, during the
10 course of this earlier White House investigation --
11 first of all, when did that occur, roughly?

12 A During the Carter Administration. Again,
13 without looking at records, I can't say the dates.

14 Q During the course of your time there, did
15 you personally review any documents in the White
16 House counsel's office?

17 A No.

18 Q Do you have any personal knowledge whether
19 anyone else did?

20 A Do not.

21 Q I take it you wouldn't know what
22 procedures, if any, if they did review documents?

1 A I do not.

2 Q Is that the only other time in your
3 experience that you've participated in any
4 investigation inside the White House complex?

5 A Yes. Well, subsequently, we've gone to the
6 White House on these other cases, the Duran cases and
7 the assault cases of the officers at the White House.

8 Q Having to do with violation of the security
9 perimeter around the White House?

10 A Yes.

11 Q Let me come forward -- back in time now to
12 the days surrounding July 20, 1993. I think we had
13 established that you had no involvement or knowledge
14 in the investigation of Mr. Foster's death on the
15 evening of July 20th; is that correct?

16 A That is correct.

17 Q And am I correct that your first
18 participation at all in any official capacity was
19 sometime around 10:00 on the morning of the 21st when
20 Captain Hume called you; is that correct?

21 A Yes, sir.

22 Q Did you know Captain Hume before he called

14

1 you?

2 A I had met him on prior occasions relating
3 to other cases.

4 Q How well would you say you know him?

5 A Not well at all.

6 Q Did you recognize his name when he called?

7 A Yes.

8 Q In as much detail as today you can
9 recall -- and I realize it's been some time -- can
10 you tell us exactly what Captain Hume said to you on
11 the telephone that morning?

12 A Captain Hume said that he was in the Old
13 Executive Office Building with his investigator, and
14 they were looking into the suicide of Mr. Foster.
15 And he had requested that I come over to assist him
16 because he was having unspecified difficulties in
17 getting information that he wanted to get, and he
18 wanted to -- he did not want to discuss it on the
19 phone. He just asked me to come over there.

20 Q Now, when you say "unspecified
21 difficulties," do you think he said that to you, I'm
22 having unspecified difficulties?

1 A No. He did not say unspecified
2 difficulties. That was my term. He said words to
3 the effect that he's having some problems, and would
4 you mind coming over, and he did not define
5 "problems" on the phone. And he wanted to just have
6 me come over.

7 Q Did he shed any light at all in that
8 telephone call about the nature of the problems?

9 A No.

10 Q Do you think he left it at I'm having
11 problems, or did he say more specifically I'm having
12 problems getting access to Mr. Foster's office?

13 A He didn't get to that detail. He said
14 would you mind coming over here; I would like to talk
15 to you. We're having problems.

16 Q When you hung up the phone with Captain
17 Hume that morning, you didn't have any idea what
18 problems, if any, he was having?

19 A No, I did not.

20 Q And he didn't name any names or say I'm
21 having problems with that jerk so-and-so, nothing to
22 that effect?

16

1 A No. I think it was more the point that he
2 had been over there for a long time, and he was not
3 getting the information that he wanted to -- that he
4 needed to get.

5 Q Did he say that to you?

6 A No, that's my thought.

7 Q That was your impression?

8 A Right.

9 Q Did Captain Hume say why he called -- of
10 all agents in the FBI, why he called you?

11 A No.

12 Q Did you have any personal understanding of
13 that, whether or not he stated it?

14 A I did not ask how many people he had talked
15 to before he got to me. He may have been referred to
16 me by other people in our office, but I have no idea
17 who that may have been. Whoever did or why he did
18 get to me, he got to the right squad. It was that
19 violation.

20 Q What violation?

21 A The potential violation involving a
22 presidential staff member.

1 Q Mr. Foster's death, had it been something
2 other than a suicide, would have fallen under the
3 squad you have?

4 A Yes, Title 18, section 1751.

5 Q And that's the presidential prohibition?

6 A Statute which also covers presidential
7 staff members.

8 Q As you sit here today, do you have any idea
9 how Captain Hume got your name?

10 A No, I don't.

11 Q Still don't know?

12 A No. I never asked him.

13 Q How would you describe his tone on the
14 telephone?

15 A Professional, and just asking me to come
16 over and see him.

17 Q He didn't seem to be agitated or frustrated
18 or more animated than usual?

19 A I couldn't compare it. No, he did not.

20 Q Didn't use any swear words or anything like
21 that?

22 A No.

1 Q What's the next thing you did?

2 A I had two agents that were out on another
3 case in a car. I beeped them and contacted them on
4 the radio and told them to meet me over at the
5 southwest gate of the White House. And after doing
6 that, I called our headquarters staff in the violent
7 crimes unit and talked to a supervisor there and told
8 them why we were going over there.

9 Q Which was what?

10 A What I previously stated, just that we had
11 a request from the Park Police to meet them over
12 there so that at least they knew why -- if it came
13 out that we were over there, at least they knew why
14 we were over there. At some point in time, I also
15 made contact with the U.S. Attorney's office in the
16 eastern district of Virginia; spoke to a prosecutor
17 over there so they would concur in our going to the
18 White House. And I subsequently drove to the
19 southwest gate and met my two agents, those two
20 agents.

21 Q Let me stop you at the gate and come back
22 through a couple of these things. You said you

1 beeped a couple of agents in a car. What were their
2 names?

3 A Scott Salter, S-a-l-t-e-r, and Dennis
4 Condon, C-o-n-d-o-n. I beeped them together because
5 they were in a vehicle together, and I knew they
6 would be available to go over there.

7 Q Any particular reason you chose them other
8 than their availability?

9 A They're extremely competent investigators,
10 experienced. If I was going to go over to the White
11 House, I wanted to have the top five people on my
12 squad, basically, not really knowing what we're doing
13 over there.

14 Q When you beeped them, did you talk with
15 them on the phone, or can you send a message over the
16 beeper?

17 A At that time we had no message capability
18 on our beeper. I just beeped them and they came on
19 the radio and I got them on the radio and told them
20 to meet me.

21 Q You don't think you said anything more than
22 that, just meet me --

20

1 A Just meet me there, sure. That's what I
2 said.

3 Q Then you called someone from headquarters
4 staff in the violent crimes unit?

5 A Violent crimes unit.

6 Q Do you remember who you spoke with there?

7 A I believe it was Andreas Stephens,
8 S-t-e-p-h-e-n-s, he's the supervisor at that time
9 assigned to our field office as well as other field
10 offices that he was assigned to cover.

11 Q What was your purpose in calling
12 Mr. Stephens?

13 A Notify FBI headquarters.

14 Q That you were going to the White House?

15 A Right.

16 Q Was that routine or unusual in some way?

17 A It's routine in this city.

18 Q I guess it was a bad question. Is it
19 routine for someone to go to the White House, or do
20 you do that whenever you leave your office?

21 A If anybody on my squad is going to the
22 White House, somebody in headquarters is going to

1 know that we're there.

2 Q What do you recall about your conversation
3 with Mr. Stephens?

4 A Essentially the same information as I
5 provided initially, the fact that we had a request
6 from the Park Police to meet them at the White
7 House. Not knowing what was going to transpire out
8 of that meeting, just the fact that they would be
9 aware that we were there because the Justice
10 Department might hear about it, and they may ask
11 headquarters why are we there. Or somebody else may
12 hear about it. It was just notification.

13 Q At this point in time, you still had no
14 idea what, if any, problems Captain Hume had been
15 referring to?

16 A Right.

17 Q And then you said you called the United
18 States Attorney's office in the eastern district of
19 Virginia. Why the eastern district of Virginia?

20 A Because Mr. Foster was found in Northern
21 Virginia.

22 Q Did you speak with the U.S. Attorney or an

22

1 assistant U.S. Attorney?

2 A Again, I didn't make a record of this, and
3 I would presume -- to the best of my recollection, I
4 spoke to a Mr. Larry Leiser, L-e-i-s-e-r.

5 Q What's Mr. Leiser's title?

6 A He's an assistant United States Attorney
7 that we deal with on violent crime matters on a
8 regular basis.

9 Q You called Mr. Leiser because he happened
10 to be someone you knew in that office?

11 A He handled most of our violent crime cases
12 in Virginia.

13 Q At the time you called Mr. Leiser, did he
14 have any involvement, to the best of your knowledge,
15 in the investigation into Mr. Foster's death?

16 A I have no knowledge, but he did not
17 indicate that he had any information.

18 Q And as you sit here today, do you have any
19 more knowledge than you did then?

20 A No, I do not.

21 Q You still don't know --

22 A I never discussed it with him.

1 Q What do you recall about your conversation
2 with Mr. Leiser, if it was Mr. Leiser? I realize you
3 don't specifically recall.

4 A It was another notification call, very
5 similar to the one to FBI headquarters. If we were
6 to do anything, it would be under the auspices of the
7 eastern district of Virginia.

8 Q Was it unusual in your experience with the
9 FBI to be called to the White House?

10 A From my experience, sure.

11 Q Other than the conversation we had about an
12 unnamed investigation in the Carter Administration,
13 had you ever been called there on any other time?

14 A No.

15 Q I think I stopped you at the gate, and I
16 think you said you had arranged to meet Agents Salter
17 and Condon at the gate; is that correct?

18 A Yes, sir.

19 Q Does the White House know you're coming?
20 Can you just show up there?

21 A I'm sure that somebody made notification to
22 the gate that we were arriving, but I can't comment

24

1 on who made that notification.

2 Q You didn't yourself?

3 A I did not.

4 Q When you arrived at the White House --
5 approximately what time that morning or that
6 afternoon did you arrive at the White House?

7 A I think it was around 12:30.

8 Q On the afternoon of the 21st?

9 A Yes, sir.

10 Q And you mentioned which gate you went to,
11 but I've forgotten.

12 A I think it was the southwest gate.

13 Q When you arrived at about 12:30, were
14 agents Salter and Condon already there?

15 A No.

16 Q What did you do when you arrived?

17 A I just waited for them to arrive.

18 Q Physically outside the gate?

19 A They parked outside the gate and walked up
20 to it, as I did.

21 Q How long do you think you waited?

22 A Not long. A few minutes. Less than 10

1 minutes.

2 Q And then I take it you passed the guard
3 post and entered the White House?

4 A Not the White House. The Old Executive
5 Office Building.

6 Q When you arrived at the -- I take it
7 there's a security checkpoint that one has to get
8 through to get into the Old Executive Office
9 Building?

10 A I don't think so.

11 Q You just walked in the front of the
12 building?

13 A The entrance that you arrive in by going
14 through the southwest gate. You go up and make a
15 left into the Old Executive Office Building.

16 Q I've confused myself here. The southwest
17 gate to the White House is guarded?

18 A Yes, sir.

19 Q So you have to get by that guard?

20 A That first guard, yes.

21 Q Was that guard aware that you were coming?

22 A Again, somebody made notification because

1 they gave us a badge and somebody escorted us in to
2 where the Park Police were.

3 Q Were you armed?

4 A No, I don't think I was.

5 Q Do you know whether or not Agents Salter
6 and Condon were armed?

7 A I don't know. If they were, then they
8 would have given their weapons over to the guard
9 before entering.

10 Q Do you recall who met you and escorted you?

11 A No, I do not.

12 Q Do you know whether or not it was a
13 Secret Service agent by the name of Martin? Does
14 that refresh your recollection at all?

15 A To be honest with you, I don't know.

16 Q Had never seen him before?

17 A No.

18 Q Never seen him since?

19 A No -- I've probably seen him since, but I
20 don't know who he is.

21 Q Then what happened?

22 A Well, we were escorted into a room in the

1 Old Executive Office Building in which Mr. Hume was
2 located along with his investigator, and we met them
3 inside in that room. Should I continue?

4 Q Sure.

5 A At that point in time, I was told by
6 Captain Hume that I believe it was Mr. Dave Margolis
7 and Mr. Roger Adams were coming to the White House
8 from the main Justice.

9 Q Did you know who Mr. Margolis was at that
10 time?

11 A Yes, sir.

12 Q And --

13 A I know him to be a high-ranking Justice
14 Department official. I did not know Mr. Adams.

15 Q Mr. Margolis is not with the FBI?

16 A He's with the Justice Department.

17 Q Sometimes at the White House I've learned
18 that they use -- at that security level they use
19 those phrases interchangeably. Your understanding is
20 that Mr. Margolis was an attorney?

21 A A high-ranking -- a main Justice attorney.

22 Q Did you also know who Mr. Adams was?

1 A No, I was told he was another Justice
2 Department attorney.

3 Q And I think you were describing that
4 Captain Hume told you that Mr. Margolis and Mr. Adams
5 were coming to the White House?

6 A Yes, sir.

7 Q Do you remember anything else about what
8 Captain Hume said?

9 A Well, basically, I don't remember specific
10 statements. I remember they were concerns that he
11 had been there a long time and he didn't get the
12 information that he wanted, that they came to get,
13 and hopefully with the arrival of Mr. Margolis and
14 Mr. Adams some arrangements could be made.

15 Q Did Captain Hume say -- strike that,
16 Julie. I'm sorry.

17 Was Captain Hume agitated or frustrated?

18 A No.

19 Q You said he said to you that they didn't
20 get the information that they wanted. Did he say
21 what that information was?

22 A Information concerning Mr. Foster, but I

1 cannot comment on specific information that they were
2 looking for at that time because I was not involved
3 in discussions with -- they wanted to see whether
4 there was any notes left by Mr. Foster. They wanted
5 to interview some people, several different things
6 that they were trying to do, and they were not being
7 able to get those things accomplished.

8 Q Did Captain Hume at that time say who, if
9 anyone, had prevent them from doing what they wanted
10 to do?

11 A No.

12 Q He didn't say, for example, just to try and
13 refresh a memory that may not be there, whether or
14 not Mr. Nussbaum had prevented them from doing what
15 they wanted to do?

16 A I cannot recall whether Mr. Nussbaum's name
17 was mentioned. I cannot.

18 (Pause.)

19 Q I think, Mr. Danna, you told me you
20 couldn't remember whether or not Mr. Nussbaum's name
21 was mentioned; is that correct?

22 A Yes, sir.

1 Q After Captain Hume told you that
2 Mr. Margolis and Mr. Adams were headed to the White
3 House and that he hoped that that would assist in
4 getting the information that they wanted -- have I
5 characterized that fairly?

6 A Yes, sir.

7 Q What's the next thing that you recall?

8 A Just sitting there waiting for Mr. Margolis
9 and Mr. Adams to arrive.

10 Q What time do you recall it being when you
11 arrived in the Old Executive Office Building?

12 A Shortly after 12:30.

13 Q And do you today recall what time
14 Mr. Margolis and Mr. Adams arrived?

15 A I do not.

16 Q Do you recall generally how long you
17 waited?

18 A Maybe less than an hour.

19 Q I realize there's some imprecision in this,
20 but your best guess is they would have arrived
21 sometime between 1:30 and 2:00 on the afternoon of
22 the 21st; is that a fair guess?

1 A It's kind of hard to answer that question
2 because they could have arrived a lot earlier or they
3 could have arrived a lot closer to the time when I
4 saw them. When they arrived, they did not
5 necessarily come into the room that we were waiting.

6 Q Good point. When did you first see them?

7 A Within an hour, approximately an hour.

8 Q So if I restated it to say while you don't
9 know when they arrived at the White House, you think
10 you saw them between 1:30 and 2:00 on the afternoon
11 of the 21st?

12 A Yes.

13 Q In the hour in which you waited, did you
14 learn any more about the problem that Mr. Hume had
15 discussed on the telephone?

16 A I did not, no.

17 Q Do you recall the name of the investigator
18 who was with Mr. Hume?

19 A I should, but I don't know who it is.

20 Q Do you recall whether it was a fellow by
21 the name of Markland?

22 A That's it.

1 Q Did you have any conversations with
2 Mr. Markland during that hour?

3 A No.

4 Q That seems odd to me. Were the FBI agents
5 and the Park Police physically separated?

6 A No, we were together, but I was just
7 talking to Captain Hume, and there wasn't a lot of
8 conversation going on about what was the thing here
9 because a lot of it had been resolved before we
10 arrived. So we were just waiting for the two Justice
11 Department people to come by and give us some
12 direction about what they wanted to do here.

13 Q When you say a lot of that had been
14 resolved, what are you referring to?

15 A A lot of the problems -- whatever problems
16 the Park Police were having in getting information.
17 And the bottom line was that as soon as those two
18 officials from the Justice Department came, they
19 would be able to proceed on doing what they needed to
20 do to get the information.

21 Q That was your understanding when the
22 officials from the Justice Department people arrived,

1 the Park Police would get the information that they
2 were seeking?

3 A At least the procedure would progress.

4 Q Do you recall anything else, anything else
5 of significance or insignificance in the hour in
6 which you waited for the Justice Department officials
7 to arrive?

8 A No.

9 Q What happened when they arrived -- strike
10 that.

11 Did they physically come to the room that
12 you were in in the Old Executive Office Building?

13 A Again, I wish I could recall, but I can't
14 recall if we moved upstairs to an outer room from
15 Mr. Nussbaum's office, because I subsequently had a
16 meeting in Mr. Nussbaum's office.

17 Q The next thing you recall is that meeting;
18 is that correct?

19 A Moving from that room that we were in to
20 the west wing office of Mr. Nussbaum.

21 Q Approximately what time of day was that?

22 A Shortly thereafter, I don't have a

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1 recollection of the exact time of that. That
2 happened pretty rapidly after I was informed that
3 Margolis and Adams were there.

4 Q Did you have any conversations with anyone
5 on the topic of the investigation other than what
6 we've discussed prior to that meeting in
7 Mr. Nussbaum's office? It's really a bad way of
8 asking whether there's anything I've missed.

9 A No.

10 Q Who was in that meeting in Mr. Nussbaum's
11 office? Were you?

12 A The first meeting I was not in -- in the
13 meeting. Captain Hume and I stayed outside and
14 Mr. Adams, Mr. Margolis, Salter, Condon and the Park
15 Police investigator -- and there could have been
16 another staffer there from Mr. Nussbaum's office. I
17 don't even know.

18 Q I got confused about who was inside and who
19 was outside. Tell me for a moment just who was
20 outside.

21 A Captain Hume and myself.

22 Q And the other people that you identified,

- 1 Mr. Salter, Mr. Condon, Mr. Markland, the Justice
2 Department people and perhaps others, they were the
3 people who were inside?
- 4 A Right.
- 5 Q And "inside" is inside where?
- 6 A Mr. Nussbaum's office.
- 7 Q Why did you remain outside?
- 8 A There was no need. There was a lot of
9 people in there and there was no room. And the
10 process here was to get things rolling, to get the
11 information that the Park Police wanted, and there
12 was no need for me to be in there. So Captain Hume
13 and I decided that the investigators could be in
14 there.
- 15 Q Your understanding is that Captain Hume
16 remained outside for the same reason that you did?
- 17 A Yes.
- 18 Q No one asked you to remain outside?
- 19 A No, they did not.
- 20 Q Was it your impression if you wanted to go
21 in, you could go in?
- 22 A That's for sure, yes.
-

- 1 Q It was just crowded. Could you hear what
2 was going on in that meeting?
- 3 A No.
- 4 Q What did you understand the purpose of that
5 meeting to be?
- 6 A Just to facilitate the obtaining of
7 information by the Park Police.
- 8 Q I think you described it at one point as
9 the first meeting?
- 10 A That meeting broke up and there was -- I
11 cannot recall the question, but people had to go back
12 into Mr. Nussbaum's office and in that meeting I went
13 back in there for a short period of time.
- 14 Q How much time elapsed between the first
15 meeting and the second meeting?
- 16 A A couple minutes, I believe.
- 17 Q It was really a continuation of the first
18 meeting?
- 19 A Yes.
- 20 Q Let me ask you about the attendees of the
21 second meeting or the continuation of the first
22 meeting. Were they all the same people we just

1 described?

2 A I would guess that they were. There was no
3 new people on the scene there.

4 Q Let me show you a document that's been
5 produced to us and which bears the document
6 production number F000151. And it's handwritten
7 notes on a document which appears to be the
8 stationery of the White House. It bears the address
9 of the White House, Washington. I'll ask you whether
10 you've ever seen that document before?

11 A Yes, I've seen it. My name is on it.

12 Q Do you know what it is?

13 A I would just guess that somebody said let's
14 get everybody's name that's here today and everybody
15 put down their name.

16 Q And was this done during what we've been
17 describing as the second meeting or the continuation
18 of the first meeting?

19 A I would say yes.

20 Q Let me just see if these names refresh your
21 memory.

22 Detective Pete Markland, I think you've

1 testified that he was in both meetings; is that
2 correct?

3 A Yes, sir.

4 Q SA Scott Salter, that would be Special
5 Agent Scott Salter. Do you remember that he was
6 there?

7 A Yes.

8 Q It looks like "ASAIC," which I think is
9 assistant special agent in charge, "Donald A. Flynn,
10 U.S. Secret Service." Do you remember whether or not
11 Mr. Flynn was there?

12 A I don't know whether he was there.

13 Q Were there Secret Service people there?

14 A Yes.

15 Q It says "David Margolis, Justice
16 Department."

17 A Yes, sir.

18 Q Mr. Margolis was in both meetings?

19 A Yes, sir.

20 Q It says "Roger Adams, Justice Department."
21 Your recollection is that he was in both meetings?

22 A It is.

1 Q Charles Hume is Captain Hume?

2 A Yes, sir.

3 Q And your recollection is that he stood
4 outside during the first meeting with you but entered
5 in the second meeting?

6 A I would say that he entered into the second
7 meeting with me.

8 Q The next name appears to be your name.
9 Below that, it says "Cliff Sloan, White House
10 counsel's office." Do you have any recollection of a
11 fellow by the name of Sloan being there?

12 A I don't recall the name, but I recall
13 possibly a staffer being there with Mr. Nussbaum.

14 Q And below that it says "Steve Neuwirth,
15 White House counsel's office." Do you remember
16 whether or not Mr. Nussbaum had two staffers there?

17 A They may have. I think Neuwirth is the
18 primary staffer.

19 Q Why do you think that?

20 A I've heard of his name since then.

21 Q What do you recall about this second
22 meeting?

1 A It was just a continuation of the
2 arrangements for looking into Mr. Foster's office the
3 next morning and the interviews that were going to be
4 conducted of his staffers there.

5 Q What, if any, information do you have about
6 why the meeting broke up and then reconvened?

7 A I do not. I don't know who called for it
8 to come back. It was, again, not a large issue. It
9 was just, well, we better make sure everybody
10 understands this or something like that.

11 Q And were there procedures for the
12 interviews and access to Mr. Foster's office
13 described in this second meeting in your presence?

14 A No.

15 Q What was discussed?

16 A In the second meeting?

17 Q The one that you attended.

18 A Again, it was just discussions about --
19 details about how we would meet tomorrow and how
20 we're going to do the interviews of the staffers and
21 who was going to be there tomorrow morning to go into
22 the office of Mr. Foster.

1 Q So a decision had been made that the
2 interviews and the review of Mr. Foster's office, I
3 take it, would not take place on the 21st, but would
4 take place on the 22nd; is that correct?

5 A That next morning, yes. Apparently --
6 again, I can't recall exactly what time it was, but
7 it was late in the day and the staffers that needed
8 to be interviewed were getting ready to leave anyway.

9 Q Take me through the time frame because you
10 first estimate that you saw Mr. Margolis and
11 Mr. Adams, I think we said sometime between 1:30 and
12 2:00 in the afternoon. Am I right?

13 A Again, I would guess that. I would refer
14 you to probably the Park Police officers, who may
15 have kept records of that exact time.

16 Q Their indication is that there was a
17 meeting in Mr. Nussbaum's office in the vicinity of
18 5:00 p.m. that day. Is that consistent with your
19 recollection?

20 A I don't know, to be honest with you. I
21 would confer with my two agents. I would guess that
22 it wasn't that late. I would guess it may have been

1 4:00 or so, but if they wrote it down in their
2 records, I would go with that, but that seems awful
3 late to me.

4 Q Your recollection is it could have been as
5 late as 4:00 that afternoon?

6 A Yes.

7 Q And if it had been as late as 4:00 that
8 afternoon and you arrived at 12:30, my math suggests
9 that you would have been waiting there for 3-1/2
10 hours. Is that consistent with your recollection?

11 A Yeah, generally. Again, I didn't take
12 records, didn't take notice of times.

13 Q Did you have the impression, as you were
14 sitting there, that you were waiting for a long time?

15 A Yes.

16 Q Did you feel like it was a waste of time?

17 A No.

18 Q Sitting around for 3-1/2 hours. You didn't
19 think to yourself, God, this is taking forever, or
20 thoughts like that?

21 A Again, we were in a secondary role there.
22 We were just there to assist the Park Police. That's

1 how much time we spent there.

2 Q During this waiting period -- I may have
3 asked you this. If I did I apologize -- did the Park
4 Police express to you or within your observation any
5 particular frustration?

6 A Again, I can't recall specifics. It was a
7 matter of a normal suicide investigation to see
8 whether the victim left any notes anywhere, what was
9 in his office, interview his co-workers and the
10 frustration was that that they could not get that
11 accomplished.

12 Q Let me just jump later in that day, and I
13 neglected to ask you how long this divided meeting or
14 these two meetings, depending on how one
15 characterized it, took?

16 A 20 minutes for the first one and a couple
17 minutes for the second.

18 Q And you only attended the second one?

19 A Right.

20 Q And the second one you recall hearing that
21 the interviews and the review would take place on the
22 following day, the 22nd of July?

1 A Yes, sir.

2 Q Do you recall anything else about the
3 second meeting?

4 A No.

5 Q Do you recall, for example, whether or not
6 the procedures for the review of the documents or the
7 contents of Mr. Foster's office were discussed?

8 A Specifically, I do not, no.

9 Q Did you gain any understanding on that day
10 from any source at all, perhaps talking with someone
11 after the meeting, for example, but I don't mean to
12 limit it to that, of what the procedures for
13 reviewing the contents of Mr. Foster's office would
14 be?

15 A Yes. Generally, they were going to involve
16 Mr. Margolis and Mr. Adams coming back and meeting
17 with Mr. Nussbaum or his staff. In going through the
18 office of Mr. Foster, Mr. Nussbaum was going to
19 review the documents and classify them into different
20 categories, personal or business related or anything
21 relating to any problems that Mr. Foster was having
22 which may be associated with his attempt to commit

1 suicide.

2 Q What role, if any, were Mr. Margolis and
3 Mr. Adams to have, as you understood it, on the
4 afternoon of the 21st?

5 A I don't know specifically what their role
6 was going to be. I know they were going to be there
7 and participate in the analysis of the records with
8 Mr. Nussbaum.

9 Q Your impression is that they, together with
10 Mr. Nussbaum, would review the documents?

11 A Yes.

12 Q Don't let me put words in your mouth.

13 A They were going to be a secondary --
14 Mr. Nussbaum was going to be a primary reviewer
15 and/or his staff were going to be the primary
16 reviewer to classify these documents and then
17 Mr. Margolis and Mr. Adams were going to look at the
18 ones that would be appropriate for them to look at.

19 Q How did you arrive at this understanding?

20 A I was just told by the attendees at the
21 meeting, the investigators from my office, and that
22 was what was going to happen. I also had a

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1 discussion with Mr. Margolis.

2 Q What do you recall about your discussion
3 with Mr. Margolis?

4 A I had asked him, based on his understanding
5 of the events here and his knowledge of the previous
6 day, whether he thought the FBI should come back the
7 next morning.

8 Q And what was his response?

9 A And he said yes. He said the Justice
10 Department would request that the FBI continue their
11 cooperative relationship with the Park Police for the
12 short term.

13 Q Did he say why?

14 A Just to make sure that all the interests
15 are served here, I guess.

16 Q Did Mr. Margolis say what his role the
17 following day was going to be?

18 A Just that he was going to return and
19 participate in looking through the documents with
20 Mr. Nussbaum.

21 Q You don't recall that he said anything more
22 specific than that?

1 A I do not, no.

2 Q And you also mentioned that you discussed
3 this, I think you said, briefly with the other FBI
4 agents. That would be Mr. Salter and Mr. Condon?

5 A And actually, the fact that they were going
6 to be required to come back, and at that point in
7 time on that day, they were going to actually conduct
8 interviews that morning prior to looking through the
9 office of Mr. Foster.

10 Q What role, if any, did you understand that
11 the FBI agents would play in the review of the
12 contents of Mr. Foster's office on the following day?

13 A Any role they would play would be to be
14 there in the event any records were found which would
15 relate to anything not covered by the suicide
16 investigation of Mr. Foster, meaning there was some
17 indication that something within our jurisdiction
18 would be there.

19 Q Now, was it your understanding, based on
20 any information that you had on that day, that the
21 FBI agents would participate in the review of the
22 documents, or did you have some different

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1 understanding?

2 A All the documents? No. I would say no.
3 They were only going to be reviewing documents which
4 may be discovered that would be pertinent to our
5 investigative interest.

6 Q Did you think at that time that the FBI's
7 role was different from or the same as Mr. Margolis's
8 and Mr. Adams's role?

9 A Different.

10 Q In what way?

11 A We were the investigative people from the
12 FBI, and we were going to assist the Park Police in
13 their investigation if they needed additional
14 assistance in the form of laboratory analysis and
15 cooperative interviews of witnesses there at the
16 White House. The difference is that we were not
17 going to be an active participant in the search.

18 Q Did you understand that Mr. Margolis and
19 Mr. Adams were going to be active participants in the
20 search?

21 A Yes, as I previously said, my understanding
22 is that they were not going to be the primary initial

1 searchers of the office.

2 Q And I'm just contrasting that, just trying
3 to get a frame of reference here with your
4 understanding of the FBI agents' role. Let me see if
5 I've got it right. The FBI you didn't expect would
6 review documents, except to the extent that documents
7 were found to be pertinent to the investigation; is
8 that correct?

9 A The suicide investigation and/or if unknown
10 documents were located there.

11 Q Mr. Margolis and Mr. Adams, you understood,
12 would review documents after Mr. Nussbaum had
13 segregated them into the categories that he was going
14 to segregate them into?

15 A That's my understanding, but again, I had
16 no personal knowledge of what their specific
17 agreement was with Mr. Nussbaum.

18 Q I understand. I'm really just trying to
19 probe, perhaps too much, the impression you had on
20 that day. Okay.

21 Do you recall anything else about that
22 afternoon meeting?

1 A No.

2 Q Did you have any further conversations on
3 that day with Captain Hume?

4 A No. We just walked out together and talked
5 about our guys would be back the next morning.

6 Q Did he express anything further to you?

7 A No, not that I recall.

8 Q He didn't say anything like this is a joke
9 or a total waste or expressions of frustration in
10 that way?

11 A Again, I can't recall specifically. I
12 would imagine he would have said we spent a lot of
13 time here today, but that's speculation on my part.

14 Q What's the next thing, Mr. Danna, that you
15 recall in connection with the investigation into
16 Mr. Foster's death?

17 A The next thing I did was prepare a
18 teletype, which you may or may not have a copy of,
19 setting forth our predication why we went there and
20 what we were going to do, what the Washington field
21 office was going to do. It's dated July 22, I
22 believe.

1 MR. KRAVITZ: That does not sound familiar
2 to me.

3 MR. JOHNSON: Is that something that's been
4 produced to us?

5 MS. SIMONTON: Yes.

6 MR. JOHNSON: Do you happen to have a copy
7 of it there?

8 THE WITNESS: The actual copy that's in
9 here is a draft copy. It's not the actual copy.

10 MS. SIMONTON: Can we go off the record?

11 (Discussion off the record.)

12 (Recess.)

13 BY MR. JOHNSON:

14 Q And, Mr. Danna, in an off-the-record
15 conversation your counsel has been kind enough to
16 supply us with an additional copy of a document which
17 bears FBI document production number 0000128 through
18 130 and which appears to be a memorandum to
19 "director, FBI, priority," with various annotations
20 on it. Let me show this document to you.

21 My first question is, is that the document
22 that you were just referring to in your last answer?

1 A Yes, this is a draft copy of a teletype
2 that is sent out through some kind of electronic
3 form, and this is the actual one that's typed on a
4 machine, and somebody approves it, and it's sent out.

5 Q What was your purpose in creating this
6 document?

7 A To document what happened on the 21st and
8 to set forth what we were going to proceed to do.

9 Q The document bears the date of July 22,
10 1993. To the best of your recollection, is that the
11 date that you prepared this document?

12 A I can't say that. I could have prepared
13 this document that evening, and the secretary could
14 not have typed it until the 22nd. In any event, it
15 went out on the 22nd.

16 Q Did you personally prepare it, or did
17 someone prepare it at your direction?

18 A I personally prepared it.

19 Q Whether or not you prepared it on the
20 evening of the 21st or sometime on the 22nd, you
21 prepared it more or less contemporaneously with the
22 events that we've been describing; is that correct?

1 A Yes, sir.

2 Q And you testified earlier today that you
3 recall arriving at the White House in the vicinity of
4 12:30 in the afternoon of the 21st?

5 A Yes, sir.

6 Q And this document seems to indicate that as
7 well?

8 A It does indicate that.

9 Q Is your testimony based today on a
10 refreshed recollection from a review of this
11 document?

12 A My total testimony today?

13 Q No, your testimony about the time you
14 arrived at the White House complex.

15 A Yes. I kept no other records of that day.

16 Q You don't independently today recall what
17 time you arrived. Is your memory refreshed by your
18 review of this document, which you prepared more or
19 less contemporaneously?

20 A I do recall that it was around 12:30 that
21 we went there, because I remember getting a call
22 earlier in the morning. It wasn't something that I

1 said to Captain Hume, I will meet you over there. I
2 told him I can get over there by 12:30.

3 Q The document bears some handwritten
4 interlineations that look to me like edits on pages
5 1, 2 and 3 of the document. Is that your
6 handwriting?

7 A Corrections, yes.

8 Q Now, you described this as a draft, but it
9 bears a number of signatures or other designations at
10 the bottom of the page. Would that be consistent
11 with it being a draft?

12 A Yeah. The actual document is sent out
13 electronically. That doesn't go anywhere. That's
14 the approval document where everybody puts their
15 names on it, and then it's sent out electronically.

16 Q Understanding that there were some edits on
17 this document, today, do you have any recollection of
18 there being any other changes to this document, other
19 than the ones that are reflected in handwriting on
20 the various pages?

21 A No. I would say that there were no other
22 changes, other than what you see right there.

1 Q So even though what we have is a draft, if
2 we read the handwritten changes, are we reading, to
3 the best of your knowledge, everything that was ever
4 in this document?

5 A Yes. If you'd like, I can actually get you
6 a copy of it, the electronic teletype that did go
7 out, which would reflect identical wording as is
8 there.

9 MR. JOHNSON: If you wouldn't mind, I would
10 ask your counsel if you could do that.

11 MS. SIMONTON: I wouldn't be so sure that
12 he can. But he can try to do so.

13 MR. JOHNSON: Within the range of technical
14 possibilities, if you can get it.

15 MS. SIMONTON: My point is it may not be in
16 the file that we produced to you, but we'll look and
17 check and see.

18 MR. FISHMAN: If it exists and we can find
19 it, you can have it.

20 BY MR. JOHNSON:

21 Q Whether or not we find that, something that
22 is in this draft of the document is unchanged. Your

1 assumption is that it would not have been changed
2 between this draft and the final; is that correct?

3 A Yes. It's typed on a disk much like you
4 see right there.

5 Q In a number of places there is an
6 abbreviation or indication that I'm unable to
7 understand. Let me give you one example. It's on
8 page 129, or the second page of this exhibit. It
9 appears to be the letters PLY or PLJ.

10 A J. That indicates that the corrections
11 that I made with a marker were actually made by the
12 secretary. When she makes that correction, she will
13 initial each page, each point.

14 Q PLJ are her initials?

15 A Her name is -- yes.

16 Q Let me refer you to a section on page 2,
17 which bears document production number 129, of this
18 document. And I'll read it into the record and also
19 give it to you to refer to the document. It says
20 about halfway down the page "an initial meeting was
21 held with White House Counsel Bernard Nussbaum, at
22 which time it was agreed that the victim's office,

1 which was located adjacent to Mr. Nussbaum's, would
2 continue to be sealed by the U.S. Secret Service
3 until 10:00 a.m. on 7/22/93, at which time Margolis
4 and Adams would conduct a preliminary examination of
5 documents located within the office."

6 First of all, why don't you take a moment,
7 Mr. Danna, and review that?

8 A Okay.

9 Q You had testified earlier that it was your
10 understanding that Mr. Nussbaum was going to conduct
11 a preliminary examination. This document suggests
12 that Mr. Margolis and Mr. Adams were going to conduct
13 a preliminary examination. Does this refresh your
14 recollection in any way about what understanding you
15 may have had on the 21st or 22nd?

16 A Unstated in this teletype is the assumption
17 that they were going to do it with Mr. Nussbaum's --
18 or Mr. Nussbaum's staff.

19 Q What you recall now is that this means that
20 Mr. Margolis and Mr. Adams would participate with
21 Mr. Nussbaum?

22 A Right.

1 Q Is that a fair characterization,
2 preliminary examination of the documents?

3 A Yes.

4 Q That's what you understood?

5 A Right.

6 Q It also says that "the purpose of this
7 examination" -- which I take it to refer to the
8 examination that you understood Mr. Nussbaum,
9 Mr. Margolis and Mr. Adams would conduct -- "is to
10 identify and segregate any privileged documents
11 between the President and the White House counsel's
12 office." Was that your understanding of their
13 purpose in reviewing that, in conducting that
14 preliminary examination?

15 A Yes, one of the purposes.

16 Q How do you think you arrived at that
17 understanding?

18 A From information provided to on the 21st.

19 Q You think by Mr. Margolis or by someone
20 else?

21 A Probably from Mr. Margolis.

22 Q And then in the last sentence on this page,

- 1 "it says subsequent to this examination of U.S. Park
2 Police and WMFO," which is --
3 A Washington metropolitan field office.
4 Q Of the FBI?
5 A Of the FBI.
6 Q -- "investigative team will review all
7 pertinent documents in an effort to gather evidence
8 in this matter." And that is the same description
9 that you gave to me earlier, isn't it?
10 A Yes.
11 Q Your understanding of what the Park Police
12 and the FBI would do on the 22nd; is that correct?
13 A Yes.
14 Q I think the question that led us to this
15 document -- thank you for pointing it out to us --
16 what's the next thing that you recall happening after
17 the evening -- late afternoon meeting on the 21st in
18 Mr. Nussbaum's office and your answer was that you
19 think you wrote this document?
20 A Yes, sir.
21 Q Did you send this document off to someone?
22 A Just FBI headquarters.
-

- 1 Q Is that routine in your practice to prepare
2 a teletype or telecommunication of this kind and to
3 transmit it?
4 A Yes.
5 Q There wasn't anything unusual about the
6 fact that you constructed this document and sent it
7 off?
8 A It's unusual that we went to the White
9 House, and that's a predication on why that teletype
10 was sent, to confirm -- I think the first thing says
11 to confirm our referenced telephone calls to them.
12 Q Did someone direct you to prepare this, or
13 did you know it was appropriate to do this?
14 A I knew.
15 Q When you sent this off, did you get any
16 comment or feedback?
17 A From FBI headquarters?
18 Q Yes.
19 A No, not initially.
20 Q Ever?
21 A Well, subsequently, the FBI headquarters
22 sent over an inspector to the Washington field office

1 to conduct the obstruction of justice investigation
2 that the FBI opened up.

3 Q How much later in time do you recall that
4 having occurred?

5 A I think it was -- he may have come over
6 July 28th or 29th. I went on leave for a day.

7 MR. JOHNSON: Is there anything about this
8 that we're not suppose to inquire about?

9 MR. KRAVITZ: I don't think so.

10 MR. FISHMAN: Off the record for a second.
11 (Discussion off the record.)

12 BY MR. JOHNSON:

13 Q Your memory is that that was, I think you
14 said, in the vicinity of July 28, 1993; is that
15 correct?

16 A 28th or 29th, I believe.

17 Q Can you say more particularly what that
18 investigation was about?

19 A It related to the subsequent location of a
20 torn-up note in a briefcase by a White House
21 staffer. I think it was Neuwirth. I was told it was
22 Neuwirth or whatever. That was related to the FBI,

1 the FBI headquarters decided to send over an
2 inspector because it was a separate inquiry than what
3 we were doing on my squad.

4 Q Help me understand the jurisdictional
5 differences. Why was that a separate inquiry?

6 A The only basis we have on our squad is the
7 175 classification, which is a Presidential staff
8 member investigation. We don't work, again, on
9 obstruction of justice cases and, again, as you may
10 or may not know, the FBI has to -- we have to have a
11 reason to do investigations, and the only reason we
12 had is, again, for a Presidential thing. I can't
13 assign people on my squad and supervise other cases
14 that are not within my purview.

15 (Discussion off the record.)

16 BY MR. JOHNSON:

17 Q What role, Mr. Danna, if any, did you play
18 in what you've described as the obstruction of
19 justice investigation?

20 A Any role I played was assigning two
21 agents. The initial agents, Scott Salter and Dennis
22 Condon, went on leave, so I believe that another

1 agent took his spot in doing some interviews with
2 Salter, and they were assigned to work with Mr. Pat
3 Foran from FBI headquarters.

4 Q What were they investigating, to the best
5 of your knowledge?

6 A They were investigating the location, the
7 finding and circumstances surrounding the torn-up
8 note that was identified.

9 Q Other than assigning the agents, did you
10 play any role at all in that investigation?

11 A I did not.

12 Q Without answering -- without revealing any
13 of the deliberative processes, did you play any role
14 in deciding whether or not to open that
15 investigation, you personally?

16 A No, I did not.

17 Q Were you ever interviewed by another FBI
18 agent about the events of the 21st or 22nd and how
19 they may or may not have related to their
20 investigation?

21 A No, I was not.

22 Q How did you become aware that the

1 handwritten document, which some have referred to as
2 a suicide note by Mr. Foster, had been discovered?

3 A Again, I can't recall specifically. I was
4 told by somebody in our office. It could have been
5 our ASAC Desarno or it could have been Scott Salter.

6 Q Referring back to the 22nd of July 1993, I
7 take it Mr. Salter and Mr. Condon returned to the
8 White House complex on that day?

9 A I believe they went there around 8:30, yes.

10 Q And you already told me this, but you did
11 not go?

12 A I did not go.

13 Q What, if any, involvement on the 22nd of
14 July did you have in the investigation surrounding
15 Mr. Foster's death?

16 A I had none.

17 Q You didn't have any conversations with
18 Captain Hume on that day, to the best of your
19 recollection?

20 A I do not recall talking to Mr. Hume. I'm
21 sure I talked to Mr. Salter and Mr. Condon.

22 Q What do you recall about your conversations

1 with Mr. Salter and Mr. Condon?

2 A It relates to the interviews. They were
3 going to do interviews that morning and the
4 interviews were not -- they were not made, and again,
5 I can't recall why they weren't scheduled that
6 morning as they were previously scheduled.
7 Basically, that's all I can recall.

8 Q Did Mr. Salter and Mr. Condon call you from
9 the White House to tell you that?

10 A I can't say that. I don't know.

11 Q Was the nature of your conversations --
12 strike that, Julie. I'm sorry.

13 Did Mr. Salter or Mr. Condon ever express
14 frustration to you or feel as if they were being
15 unnecessarily delayed in their investigation?

16 A I can't recall him saying that. I would
17 refer you to them, again, because we're on -- we were
18 still in a secondary -- we were in a secondary role
19 to the Park Police.

20 Q Why was the FBI participating at all in the
21 interviews the following day?

22 A At the request of the Park Police and

66

1 Mr. Margolis.

2 Q Was there any stated reason?

3 A Just to assist Park Police in a cooperative
4 effort.

5 Q Did you have any understanding on the 21st
6 of July who was going to be interviewed the following
7 day?

8 A On the 21st? Secretaries in Mr. Foster's
9 office, maybe secretaries in Mr. Nussbaum's office.

10 Q Did you know their names on that day?

11 A I did not.

12 Q Have you ever come to learn their names?

13 A I've seen them in the file, but I can't
14 recall them right now.

15 Q And when you say the FBI was tasked to
16 assist the Park Police, maybe you can put a little
17 meat on that. Was it your understanding they would
18 actually participate in the interviews, ask
19 questions?

20 A Yes.

21 Q Prepare FBI interview memoranda or 302s?

22 A They probably would not do that. They

1 would probably -- unless there's a reason, they
2 probably would allow -- do the reporting process of
3 the Park Police, so that you didn't create two
4 different types of documents.

5 Q Do you know anything at all about the
6 circumstances under which the interviews were
7 conducted on the 22nd of July?

8 A No, I do not.

9 Q For example, do you know whether or not
10 White House counsel attended those interviews?

11 A I don't know that.

12 Q And you don't know -- other than what you
13 may have read subsequent in time, you didn't learn
14 what the secretaries may have said on that day or
15 anything like that?

16 A No.

17 Q What, if anything, did you learn about the
18 review of documents in Mr. Foster's office that took
19 place on the 22nd?

20 A The only thing I can recall is that there
21 was nothing significant found.

22 Q And how do you think you learned that?

1 A Probably from Mr. Salter.

2 Q Did Mr. Salter describe to you in any
3 detail how the search was conducted?

4 A Of the documents?

5 Q Yes, sir.

6 A Just that Mr. Nussbaum had gone through all
7 the documents and segregated them.

8 Q Did he say whether or not the FBI had gone
9 through any documents?

10 A I don't recall whether he said they had
11 looked at any documents. My gist of the actions
12 there that day was that Mr. Margolis was the primary
13 reviewer of the documents.

14 Q Your understanding is that Mr. Margolis had
15 participated in the review of the documents?

16 A That's my understanding.

17 Q And you think you got that understanding
18 from Mr. Salter?

19 A Probably.

20 Q Do you recall anything else -- hearing
21 anything else about the circumstances of the document
22 review that took place on the 22nd?

1 A No.

2 Q Did Mr. Salter express any views to you
3 about whether or not it was a helpful process that
4 took place on the 22nd in Mr. Foster's office?

5 A I don't recall that. Again, he was
6 assisting the Park Police, and I think everything was
7 going along okay, but again, that's speculation.

8 Q He didn't offhandedly say words to the
9 effect that this thing is a joke or words to that
10 effect?

11 A Not that I recall.

12 Q Do you ever remember getting that
13 impression from anyone?

14 A No.

15 Q What's the next thing, Mr. Danna, that you
16 recall about the investigation into Mr. Foster's
17 death?

18 A I recall that there was additional delays
19 in interviewing people because of funeral
20 arrangements in Arkansas and people being
21 unavailable, and that goes into that weekend. And I
22 believe that the beginning of the next week was when

70

1 the letter was found, the torn-up letter, and that's
2 when the issue of the inspector from headquarters
3 coming over arose. And that's basically my
4 additional information.

5 Q And when you say "additional delays,"
6 what's the basis of your information about additional
7 delays in the interviews?

8 A You mean as far as the people that needed
9 to be interviewed?

10 Q Yes, sir.

11 A The fact that they were in the process of
12 either going to or attending funerals.

13 Q They were physically going to be in
14 Arkansas?

15 A Yes, they were just unavailable.

16 Q Who do you think told you that?

17 A I don't know. Probably Scott Salter again.

18 Q And do you know any more about it than
19 that?

20 A No. That's the extent of it. I did go on
21 leave one day there at the end of that week prior to
22 the 28th, and I was on leave on, like, a Thursday and

1 came back Friday.

2 Q You've testified earlier that you learned
3 later in time that a torn-up note had been found; is
4 that correct?

5 A In the bottom of a briefcase.

6 Q And you were aware that another group, not
7 your group, was going to investigate that under a
8 broad obstruction of justice umbrella. Is that a
9 fair statement?

10 A Under a different leader. The leader would
11 be Pat Foran and the group would still be Scott
12 Salter helping with that, from the FBI.

13 Q Other than knowing that a note had been
14 found in a briefcase and there was going to be an
15 investigation, do you have any other personal
16 knowledge about the note or an investigation into the
17 note?

18 A I do not.

19 Q Generally speaking, to the best of your
20 recollection, have we now covered your personal
21 knowledge about the events surrounding Mr. Foster's
22 death and the investigation into his death?

1 A Yes, I believe I have.

2 Q There's nothing that leaps out that I
3 should have asked you?

4 A No.

5 Q Did you ever at any time receive any
6 information relating to the topic of whether or not
7 anyone had entered Mr. Foster's office in the evening
8 or early -- in the evening of July 20, 1993 or in the
9 early morning hours of July 21, 1993?

10 A I may have heard discussions from Scott
11 Salter, speculation, but there was no way of --

12 Q What speculation do you remember hearing
13 from Mr. Salter?

14 A Just the fact that somebody may have gone
15 in, and they may have discovered that during their
16 investigation -- during their obstruction of justice
17 investigation.

18 Q Did he say to you who may have gone in?

19 A No. I don't recall it as somebody
20 definitely went in. It's just a possibility that
21 somebody may have gone in.

22 Q Did you get any information from Mr. Salter

1 or any other source whatsoever about whether or not
2 any documents had been removed from Mr. Foster's
3 office?

4 A No, I did not.

5 Q Do you remember anything more at all about
6 that topic, someone entering Mr. Foster's office on
7 the evening of July 20th or early morning hours of
8 July 21st, 1993?

9 A I don't recall, no. I'm sure Mr. Salter
10 would have details on that.

11 Q Just to see if I understand it, all that
12 you recall is that you may have learned from Scott
13 Salter that someone may have gone into that office on
14 that evening. As we sit here today, you don't know
15 who?

16 A I do not.

17 Q You don't have any information at all about
18 whether or not documents were removed --

19 A No.

20 Q -- from that office?

21 A No, I do not.

22 Q Did Mr. Salter express to you surprise or

1 any other views about his belief or suspicion that
2 someone may have entered that office?

3 A No.

4 Q Did he express to you the view that he or
5 any other investigators may have been misled about
6 whether or not anyone went into that office?

7 A No.

8 Q He didn't say words to the effect they
9 should have told us this or something like that?

10 A Again, I was not involved in those
11 discussions. Once it went to the obstruction of
12 justice side of the equation here, Pat Foran was the
13 supervisor at that point.

14 Q I take it, Mr. Danna, that you did not
15 write any further telexes or telecommunication
16 documents or any other summaries other than what
17 we've referenced in this deposition?

18 A That's correct, I only wrote that one.

19 Q Who is Mr. Gillis? Do you know Mr. Gillis?

20 A Mr. Gillis is an agent on a white-collar
21 crime squad at Tysons Corner. It's called a mini
22 resident agent that they work white-collar crime

1 investigations, and my information is sketchy. He
2 may have been involved in the Travelgate
3 investigation.

4 Q To the best of your knowledge, did he have
5 any involvement at all in the investigation
6 surrounding Mr. Foster's death?

7 A No, I don't believe he did, no.

8 MR. JOHNSON: Mr. Danna, thank you very
9 much for your patience with me this morning.
10 Mr. Kravitz, I'm certain, will have some questions
11 and at the end of his questioning, I'll come back and
12 remind us all about confidentiality, but thank you
13 again for your time and your patience.

14 THE WITNESS: Thank you.

15 MR. KRAVITZ: Why don't we take about a
16 three-minute break. I think it will save us time in
17 the long run.

18 (Recess.)

19 EXAMINATION

20 BY MR. KRAVITZ:

21 Q Mr. Danna, my name is, again, Neal
22 Kravitz. I'm counsel for the Democratic members of

1 the Senate Whitewater Committee. I'm going to ask
2 you some follow-up questions based on some of your
3 answers to Mr. Johnson's questions. I apologize in
4 advance to the extent that I have to be repetitive to
5 focus your attention on the areas that I want to ask
6 you about.

7 You testified earlier that back in July
8 1993 one of the people you reported to was an SAC
9 named Bob Bryant; is that right?

10 A Yes.

11 Q Were you aware that Agent Bryant gave a
12 press briefing along with Mr. Heymann and Chief
13 Langston from the Park Police on August 10, 1993?

14 A Somebody told me about that, but if I was
15 personally aware, I would suspect that I was on leave
16 at that time. I did not go back and check my leave.

17 Q Did you have any involvement in preparing
18 Mr. Bryant for that press briefing?

19 A No, I had not.

20 Q Any involvement in preparing Mr. Heymann
21 for that press briefing?

22 A No.

1 Q You testified that as of the time that
2 Mr. Hume called you on the morning of July 21, 1993,
3 you knew him a little bit from prior cases; is that
4 right?

5 A Basically assault on federal officer cases
6 involving U.S. Park Police officers.

7 Q Approximately how many cases before July
8 21, 1993, had you had any involvement with Sergeant
9 Hume?

10 A Probably just one case involving a subject
11 that was apprehended by the FBI as he was trying to
12 leave the country based on our investigation, and we
13 had subsequent press conferences at the Park Police
14 headquarters on Ohio Drive with our people so
15 basically only one case.

16 Q Had you ever worked with Sergeant Hume on
17 any case involving a death?

18 A No.

19 Q No cases involving an apparent suicide?

20 A No.

21 Q What about Detective Markland, had you ever
22 worked with him or had any contact with him before

1 July 21, 1993?

2 A I did not, no.

3 Q Had you ever heard of Detective Markland
4 before that date?

5 A Did not.

6 Q Based on what you knew as of the time that
7 Sergeant Hume called you on the morning of July 21,
8 1993, did you have an opinion as to whether Sergeant
9 Hume was competent to conduct a suicide investigation
10 relating to a high-ranking White House official?

11 A Did I have an opinion? I assumed that he
12 was competent, yes.

13 Q What was that assumption based on?

14 A Nothing. Just that he was a captain in the
15 Park Police, and the suicide was on Park Police
16 property that was under their jurisdiction.

17 Q And I take it you wouldn't have had any
18 opinion as to Detective Markland's ability to conduct
19 this investigation if you hadn't worked with him
20 before?

21 A I had no opinion of him.

22 Q Mr. Johnson asked you some questions about

1 that telephone conversation that you had with Captain
2 Hume at approximately 10:00 in the morning on July
3 21, 1993. Let me ask you this: To the best of your
4 memory, how many times before that day had you spoken
5 with Captain Hume over the telephone?

6 A Maybe once, maybe twice, all related to the
7 prior case.

8 Q Were you familiar with Captain Hume's
9 normal tone of voice over the telephone before the
10 time that he called you on July 21, 1993?

11 A No, I was not.

12 Q So are you able to say with any degree of
13 certainty whether Captain Hume was more or less
14 agitated than usual when you talked to him on July
15 21, 1993?

16 A I cannot say that, no.

17 Q Let me direct your attention now to the
18 time period on July 21, 1993 in the early afternoon
19 hours shortly after you had arrived at the Old
20 Executive Office Building. Do you understand?

21 A Uh-huh.

22 Q You have to answer.

1 A Yes, I'm sorry.

2 Q I believe you testified for some period of
3 time, possibly an hour, possibly longer, you were
4 waiting in a room in the Old Executive Office
5 Building along with Captain Hume and Detective
6 Markland; is that right?

7 A Yes, and I may have neglected to say that
8 there was probably a Secret Service representative in
9 that room with us.

10 Q And you testified previously about some
11 conversation that you had during that time period
12 with Captain Hume; correct?

13 A Yes.

14 Q At any time during that conversation with
15 Captain Hume in the Old EOB in the afternoon hours of
16 July 21, 1993, did Captain Hume say anything to you
17 about a Park Police request the night before to have
18 Mr. Foster's office sealed?

19 A No, he did not.

20 Q In your presence, did Captain Hume say
21 anything about a Park Police request the night before
22 to have Mr. Foster's office sealed to anyone other

1 than you?

2 A No. I was aware that the office was
3 sealed, but again, I cannot recall who exactly told
4 me that the Secret Service was sealing the office.

5 Q In other words, as of the time that you
6 were sitting in the Old Executive Office Building in
7 the early afternoon hours of July 21, you knew that
8 the Secret Service was guarding the door to
9 Mr. Foster's personal office?

10 A Yes, I did.

11 Q But no one had said anything to you,
12 whether that was as a result of a Park Police request
13 from the night before; is that right?

14 A Again, I cannot recall that, no.

15 Q Do you recall any of the Park Police
16 officers on July 21, 1993 complaining about having
17 made a request the night before to have the office
18 sealed and about having the request not be followed?

19 A No, I personally do not know that, no.
20 Again, I knew that it was sealed. I didn't know that
21 it wasn't sealed.

22 Q If I've already asked you this, I

1 apologize. Your testimony is that you don't recall
2 how you knew that the office was sealed as of the
3 early afternoon of July 21?

4 A No. Again, I'm just guessing I was told by
5 probably -- again, Mr. Hume or Markland could have
6 told Salter or it could have just been general
7 knowledge as we were waiting in that room.

8 Q Just to summarize, you don't recall any
9 conversation during that occurred in the Old
10 Executive Office Building about concerns about a
11 delay in the sealing of the office?

12 A I don't recall that.

13 Q At some point, you testified Mr. Margolis
14 and Mr. Adams arrived at the White House complex; is
15 that correct?

16 A Yes.

17 Q Was there any conversation between the Park
18 Police officials there and Mr. Margolis or Mr. Adams
19 before the time of the meeting or meetings in
20 Mr. Nussbaum's office that afternoon?

21 A Just between Margolis and the Park Police?

22 Q Let me start with that. At any time

1 between the time that the Justice Department
2 officials arrived and the time the meeting began in
3 Mr. Nussbaum's office, did Mr. Margolis speak with
4 any of the Park Police officials who were present?

5 A Again, the only two people from the Park
6 Police was Hume and the other guy.

7 Q Markland?

8 A Markland. And my recollection is that we
9 were all together waiting for them to arrive, so if
10 they -- I cannot recall whether or not they left and
11 had discussions. They may have, but I don't recall
12 that.

13 Q So you have no recollection of either of
14 the Park Police officers who were present telling the
15 Justice Department officials about any concerns that
16 they had about the investigation before the time that
17 the meeting in Mr. Nussbaum's office began?

18 A I have no specific knowledge, but it's a
19 possibility, sure.

20 Q Now, at some point up in the White House
21 counsel's office suite on July 21, 1993, you actually
22 went into Mr. Nussbaum's office and joined the

1 meeting; is that right?

2 A Yes.

3 Q Was Mr. Nussbaum present at that time?

4 A Yes, he was.

5 Q What was his demeanor like during the time
6 that you were present in Mr. Nussbaum's office?

7 A Again, I would just say he was
8 professional, trying to work out the details. That
9 was my impression, trying to facilitate arranging
10 everybody to do the right thing.

11 Q Was Mr. Nussbaum behaving in a cooperative
12 manner?

13 A While I was there, he was, yes.

14 Q Did he appear to be bossing everyone
15 around?

16 A Not while I was there, no.

17 Q Did you perceive any tension between any of
18 the members -- any of the people who were present in
19 Mr. Nussbaum's office when you were there?

20 A No.

21 Q Were there any arguments or disagreements
22 while you were in Mr. Nussbaum's office on July 21,

1 1993?

2 A No, there were not.

3 Q Where were you, by the way, during the
4 first part of that meeting in Mr. Nussbaum's office,
5 the part that you and Captain Hume did not attend?

6 A There was a hallway right outside the area
7 encompassing where the secretaries sit in
8 Mr. Nussbaum's office, and we were standing out there
9 in the hallway. It's a very small area.

10 Q At any point on that afternoon, did you see
11 a Secret Service guard in front of Mr. Foster's
12 personal office inside the White House counsel's
13 suite?

14 A I did, yes.

15 Q Where exactly was the Secret Service guard
16 when you saw him or her?

17 A Standing in front of the office -- the
18 doorway, I'm sorry.

19 Q Right in front of the doorway?

20 A Yes.

21 Q Was Mr. Foster's door open or closed?

22 A It was closed.

1 Q Did you see anyone go into Mr. Foster's
2 office during the time that you were in the White
3 House counsel's suite?

4 A I did not.

5 Q Did you observe other people who appeared
6 to be working in the White House counsel's suite in
7 addition to the White House officials who were
8 present in Mr. Nussbaum's office specifically?

9 A I saw several secretaries in that area.

10 Q In the outer office of the suite?

11 A Outer office, yes.

12 Q Could you tell what their emotional state
13 was?

14 A They were very quiet and going about their
15 business of answering phones and typing. No
16 statements were made and no indications were made to
17 anyone.

18 Q Did people appear upset?

19 A Again, that emotion was not shown to me.
20 It was just that they were proceeding in doing their
21 job.

22 Q I want to see if I can clarify the record

1 as to what your understanding was following the
2 meetings in Mr. Nussbaum's office on the afternoon of
3 July 21 about how the office search or the document
4 review would be conducted the next day, July 22. Do
5 you understand that?

6 A Yes, I do.

7 Q I'm going to paraphrase your testimony, and
8 correct me if I do it inaccurately. It's certainly
9 not intentional. My memory is that initially when
10 you were testifying about your understanding, you
11 said that it was your understanding that on July 22,
12 Mr. Nussbaum would be the primary reviewer of the
13 documents in Mr. Foster's office, and that
14 Mr. Margolis and Mr. Adams would then be secondary
15 reviewers, that is they would review documents that
16 Mr. Nussbaum had determined were appropriate for them
17 to review.

18 And then I think after reviewing FBI
19 documents 128 through 130, your testimony, in
20 essence, was that it was your understanding on July
21 21 that Mr. Nussbaum and Mr. Margolis and Mr. Adams
22 would review the documents together. And again, I

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1 hope I haven't misstated your testimony, but what I'm
2 really trying to find out is what exactly was your
3 understanding after the meeting in Mr. Nussbaum's
4 office on July 21, 1993 as to who would play what
5 role the next day in the review of documents in
6 Mr. Foster's office?

7 A My understanding is that Mr. Nussbaum was
8 going to be the primary reviewer of documents,
9 initially review documents and make available to
10 Mr. Margolis and Mr. Adams documents which he
11 perceived to be not privileged between Mr. Foster and
12 the President.

13 Q Was it your understanding that Mr. Margolis
14 and Mr. Adams would have an opportunity to review
15 those nonprivileged documents on July 22nd during the
16 office search or some subsequent time?

17 A It was. It was my understanding.

18 Q That they would get to review those
19 documents when?

20 A Contemporaneously, I believe. But again, I
21 was not there, and I was not dealing directly with
22 Mr. Nussbaum.

1 Q Now, your understanding following the July
2 21 meeting in Mr. Nussbaum's office about what the
3 procedures would be the next day was based on a
4 conversation that you had following the meeting with
5 Mr. Margolis?

6 A Yes. I had a discussion with him, and I
7 had a discussion with Captain Hume.

8 Q Where did your discussion with Mr. Margolis
9 take place?

10 A In the -- we had come back down on the
11 elevator from the floor on which Mr. Nussbaum was
12 located, and we were on a main floor -- the exit
13 floor.

14 Q Is this still in the west wing of the White
15 House?

16 A Still in the west wing of the White House,
17 and he told me what was going to happen, and I asked
18 him, I said are you sure you want us coming back, you
19 know, because of the focus here, and he says yes, we
20 want you two guys to come back.

21 Q Did Mr. Margolis express any concern or
22 disappointment about the fact that Mr. Nussbaum would

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1 be the primary reviewer of documents the next day?

2 A Not to me, no.

3 Q And you testified also that you spoke with
4 Captain Hume at some point after the meeting in
5 Mr. Nussbaum's office on July 21?

6 A Yes, sir.

7 Q Where did that conversation take place?

8 A Probably -- I think it was walking on the
9 outside of the west wing, walking back down to the
10 southwest gate.

11 Q Was Mr. Margolis still with you at the time
12 you spoke with Captain Hume?

13 A No.

14 Q Was it just you and Captain Hume?

15 A I think it was he and his investigator and
16 the guy from the Washington field office and I
17 walking down.

18 Q It was you --

19 A Salter, Condon and then --

20 Q Hume and Markland?

21 A And Markland, right.

22 Q Did Captain Hume say anything to you at

1 that time about how the office search was expected to
2 be conducted the next day?

3 A No.

4 Q Did Detective Markland say anything to you
5 on that subject?

6 A No.

7 Q Did either of the Park Police officers say
8 anything to you on July 21, 1993 after the meeting in
9 Mr. Nussbaum's office to express concern or
10 disagreement with the agreed upon procedures for the
11 search of Mr. Foster's office the next day?

12 A No.

13 Q This is a little out of order. I
14 apologize. You testified that your involvement in
15 the investigation surrounding -- the investigation of
16 the circumstances surrounding the discovery of the
17 note, approximately a week after Mr. Foster's death,
18 was to assign Agent Salter and another agent to work
19 with an official from FBI headquarters; is that
20 correct?

21 A Yes, and an inspector, yes.

22 Q What's the name of the second agent you

1 assigned to that investigation?

2 A I think that changed. I think it started
3 out to be Bradley Garrett, G-a-r-r-e-t-t. Basically,
4 it changed -- the only reason it changed is because
5 we wanted two people and two agents involved, and
6 rather than Salter doing it by himself, the first
7 guy, Condon had to leave. He was scheduled for
8 annual leave. He left. Garrett pitched in, helped
9 out Salter, and then another agent, Charles Dorsey,
10 D-o-r-s-e-y, subsequently assisted Scott Salter in
11 doing the interviews.

12 Q And the name of the inspector from
13 headquarters was Pat Foran?

14 A Yeah, his first name is Patrick and I think
15 F-o-r-a-n is his last name. He actually came to my
16 squad and was there for a few weeks, couple weeks or
17 so.

18 Q Let me direct your attention back now to
19 July 22, 1993, and I understand you were not at the
20 White House on that day; is that right?

21 A Yes, sir.

22 Q You learned, however, that the interviews

1 of some witnesses occurred that day; is that correct?

2 A I think he interviewed a couple people. I
3 think Salter interviewed a couple people with the
4 Park Police officers.

5 Q Do you know who was interviewed?

6 A I do not know, no. It would be in the
7 file.

8 Q Did you speak with Scott Salter about those
9 interviews at any time?

10 A I'm sure I did, but again, it was just the
11 fact that he had interviewed some secretaries and
12 nobody had anything significant to provide.

13 Q Did Agent Salter ever say anything to you
14 to indicate that any White House officials interfered
15 with the interviews of the secretaries?

16 A No, he did not.

17 Q Did Mr. Salter tell you that lawyers from
18 the White House counsel's office sat in on those
19 witness interviews?

20 A I think somebody did. I think somebody
21 did, but I'm not sure.

22 Q Who would it have been if it wasn't Agent

1 Salter?

2 A No, I think somebody did sit in on the
3 interviews.

4 Q Did you ever talk to any of the Park Police
5 officials about the interviews of White House
6 secretaries?

7 A No.

8 Q Your information about those interviews
9 would have come from Scott Salter?

10 A Yes.

11 Q Did Scott Salter tell you that there was
12 any problem as a result of the presence of White
13 House counsel's office attorneys?

14 A Just during interviews?

15 Q Right.

16 A No.

17 Q And I believe you testified that some of
18 the interviews that you thought were scheduled to
19 take place on July 22nd ended up being delayed?

20 A And my understanding as reflected in that
21 teletype, is that they were going to be over there at
22 8:30 and do several interviews before looking through

1 the office.

2 Q Do you have any reason to believe that did
3 not happen?

4 A I was told it was not. It was rescheduled
5 for some other time, so all of the interviews that he
6 was going to do were not done.

7 Q In other words, what Salter told you was
8 that some of the interviews scheduled for the 22nd
9 were done that day and some were delayed?

10 A That's right.

11 Q Did Agent Salter tell you that he suspected
12 that there was any White House interference or
13 improper conduct related to the delay of those
14 interviews?

15 A No, he didn't tell me that.

16 MR. KRAVITZ: That's all I have. Thanks.

17 THE WITNESS: Thank you.

18 MR. JOHNSON: Mr. Danna, let me thank you
19 on behalf of the staff for the entire Committee for
20 your time. The confidentiality of these proceedings
21 is extremely important to the Committee and to the
22 staff, and we'd be grateful if you wouldn't discuss

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1 this deposition today with anyone.

2 THE WITNESS: Okay.

3 MR. JOHNSON: Thank you, sir.

4 (Whereupon, at 11:58 a.m., the deposition
5 was concluded.)

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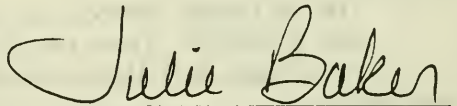
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JOHN K. DANNA

I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

ERRATA

[illegible]

**DEPOSITION OF PETER W. MARKLAND
IN RE: S. RES. 120**

VOLUME I

WEDNESDAY, JUNE 28, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of PETER W. MARKLAND, called for examination pursuant to notice of deposition, at 9:40 a.m. in Room 116-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.

Majority Chief Counsel

RICHARD BEN-VENISTE, Esq.

Minority Special Counsel

GLENN F. IVEY, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

ALSO PRESENT: VINCENZO A. DELEO

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EXHIBITS

Peter W. Markland DEPOSITION NUMBER	IDENTIFIED
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Park Police Exhibit 29	118, 1705
Park Police Exhibit 32–33	167, 1706
Park Police Exhibit 34	175, 1708
Park Police Exhibit 36 and 37	181, 1709
Markland Exhibit 1	194, 1711

P R O C E E D I N G S

MR. GIUFFRA: Good morning, Detective Markland. Or is it Sergeant Markland?

THE WITNESS: It is sergeant.

MR. GIUFFRA: My name is Robert Giuffra. I'm the chief counsel of the Senate Banking Committee. To my immediate right is Glenn Ivey, who is a Democratic counsel, and down at the end of the table is Richard Ben-Veniste who is the special counsel for the Democrats. I work for the majority. Behind me is Vincenzo DeLeo who works for the majority.

This is a deposition conducted pursuant to Senate Resolution 120. This resolution establishes a special committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority and other related matters.

Section 1.B.1 of Senate Resolution 120 authorizes an investigation and public hearings into

"whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death."

This particular provision will be the focus of today's deposition. If you have any interest in looking at the resolution, I have a copy of it here for you.

You were requested to testify in an oral communication between the committee and Interior Department on June 13th. This was confirmed by letter dated June 14, 1995 to Stephanie Lynch of the Interior Department.

I don't believe you previously testified before the Senate. This deposition will be conducted in advance of public hearings that the Senate is likely to hold in July, probably in the middle of the month. I think there is a strong possibility you will be asked to testify at those public hearings.

We will try to give you advance notice so you can plan your schedule with regard to those public hearings, in terms of when you will be asked

1 to testify.

2 Today I will first be asking you a series
3 of questions and someone for the minority staff will
4 be asking you a series of questions. You will be
5 testifying under oath. If at any point you don't
6 understand a question, please let me know and I will
7 rephrase it. If you need a break at any point,
8 again, let us know and we will have a break.

9 Brenda Smonskey, who is the court reporter,
10 will prepare a record of these questions and
11 answers. The deposition will be treated as committee
12 confidential until the commencement of the hearings,
13 meaning that it will not be made public. We would
14 ask you not make public what you say here today.

15 You have a right to be represented by
16 counsel. I see you are not represented by counsel
17 today. But objections to the form of questions can
18 be noted for the record. You can also object on
19 grounds of privilege or relevance. We have a
20 procedure specified in the resolution to deal with
21 such objections. You will be given an opportunity to
22 review the transcript that is prepared by

1 Ms. Smonskey to see if there are any errors in the
2 transcription. And you will have an opportunity to
3 correct any errors that are in the transcription.

4 Do you have any questions or anything at
5 this point?

6 A No. I was contacted by counsel. I
7 declined to have counsel present with me.

8 MR. BEN-VENISTE: Who was that, for the
9 record?

10 THE WITNESS: I have the name back at my
11 office. It was Interior Department.

12 MR. GIUFFRA: Okay. Anything else?

13 THE WITNESS: No.

14 MR. GIUFFRA: Please swear the witness.
15 Whereupon,

16 PETER W. MARKLAND
17 was called as a witness and, having first been duly
18 sworn, was examined and testified as follows:

19 EXAMINATION

20 BY MR. GIUFFRA:

21 Q Please state your name for the record.

22 A Peter W. Markland, M-a-r-k-l-a-n-d.

1
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4

5 Q And your present business address?

6 A Our headquarters address is 1100 Ohio Drive
7 Southwest, Washington, D.C. I'm located in special
8 forces branch, currently working out of the Southeast
9 Federal Center, building number 136.

10 Q What I would like to do now is just go
11 through your experience with the Park Police, just
12 get some background questions out for the record.

13 A Okay.

14 Q Now, you are presently a sergeant. When
15 did you become a sergeant?

16 A August of '93.

17 Q And you work in the special forces branch
18 now?

19 A Right, in SWAT. I'm a sergeant of one of
20 two special weapons and tactics teams.

21 Q What does a SWAT team do, for the record?

22 A We handle a lot of special events and

8

1 demonstrations. We also do high risk search
2 warrants, SWAT type functions.

3 Q And before August of 1983, what was your
4 position with the Park Police?

5 A I was a detective out of the criminal
6 investigations branch.

7 Q For how long were you a detective in the
8 criminal investigations branch?

9 A I believe I made the rank of detective
10 around January of '92. Prior to that, from 1988
11 through '91, I was a plain clothes investigator.

12 Q What was the period of that, again?

13 A Beginning of 1988 until I made detective in
14 '91.

15 Q And sergeant is a higher rank than
16 detective?

17 A Yes.

18 Q And prior to being a plain clothes
19 investigator, what was your position?

20 A I was a member of our narcotics and vice
21 unit from 1984 through '88.

22 Q And prior to becoming a member of the

1 narcotics and vice unit?

2 A I was a street patrol officer from '80
3 through '88 in the Anacostia station. I was assigned
4 to our central district from '78 through 1980.

5 Q Where is the central district?

6 A It is the downtown area of the monuments,
7 memorials and National Mall.

8 Q Did you join the Park Police in 1978?

9 A Yes.

10 Q Is that your first position?

11 A No. I was with what is now known as Secret
12 Service uniform division, 1976 through '78.

13 Q Did you work at the White House?

14 A Yes, I did.

15 Q Where in the White House did you work?

16 A There were rotating fixed posts throughout
17 the grounds.

18 Q So did you work in the west wing?

19 A That wing was a senior post at the time,
20 and it was a permanent post. I had been in there,
21 yes, for maybe temporary relief of an officer working
22 that. It wasn't one of the posts that rotated, no.

10

1 Q Did you work in the Old Executive Office
2 Building?

3 A Same thing with that. I had been in there
4 and worked in there off and on but not on a regular
5 basis. It was mostly White House grounds and north
6 portico, south portico, basically the gate post.

7 Q Are you familiar with the layout of the
8 west wing?

9 A Yes, in a general way.

10 Q Have you walked through the west wing, most
11 parts of the west wing at one time or another?

12 A When we first came on and were familiarized
13 with the White House, we walked through the entire
14 complex, including the private residence.

15 Q Why did you leave the Secret Service?

16 A It was not -- when I was hired, I was led
17 to believe it would be more of a police type
18 function, and I was dissatisfied with what it really
19 was when I got there.

20 Q It was mostly doing security?

21 A Yes.

22 Q Did you hold a position before joining the

1 Secret Service or was that your first job, say, out
2 of school?

3 A Prior to that I did construction work,
4 various jobs while attending night school.

5 Q Where did you go tonight school?

6 A Nassau Community College, Long Island,
7 New York.

8 Q Do you have a degree from Nassau Community
9 College?

10 A I attained slightly more than an
11 associate's degree, which is the two-year degree.

12 Q And what was that degree in?

13 A Police science.

14 Q What are some of the subjects that were
15 covered in that course of study?

16 A I took every police science course they
17 offered at the time. I couldn't recall the exact --
18 it was quite a while ago.

19 Q Did you take courses in investigations,
20 conducting investigations?

21 A I'm sure some of the courses pertained to
22 that, and criminal law. I can't recall.

1 Q Let's just go back up your chronology.
2 What I would be interested in learning about is your
3 experience with regard to homicide or suicide
4 investigations. Have you investigated homicides in
5 the past?

6 A I have attended, both for Secret Service
7 and Park Police, the Federal Law Enforcement Training
8 Center, their basic police schools. I'm sure there
9 is a basis for investigations there. I attended
10 Federal Law Enforcement Training Center, FLETC --

11 Q Is that in Georgia?

12 A Yes, in Georgia, the criminal investigation
13 school.

14 Q How long was that course of study?

15 A I believe it was eight weeks.

16 Q What are some of the subjects that are
17 covered at that particular school?

18 A Again, criminal law, crime scene search,
19 interviewing, interrogation. I don't recall the
20 specific --

21 Q When would you have gone to that school?

22 A I believe it was '88.

1 Q And the other schools that you mentioned
2 prior to --

3 A When I first came on Secret Service in '76
4 and then again in '78.

5 Q Was there training in criminal
6 investigations in both of the earlier schools?

7 A Basic police work functions. They touch on
8 all the subjects I mentioned in criminal investigator
9 school. That was in more depth. I have also
10 attended a school seminar given by the medical
11 examiner in Baltimore, the medical examiner's
12 office.

13 Q What were the subjects covered at that
14 school? Was that a forensic school?

15 A Forensic. There were various speakers from
16 the FBI; blood spatter, basic forensic type work,
17 yes.

18 Q What sort of training have you received in
19 the handling of crime scenes, sealing off crime
20 scenes?

21 A In all of the schools I have mentioned,
22 they touch on crime scene preservation.

1 Q And what are some of the things you recall
2 learning about at these various schools?

3 MR. BEN-VENISTE: Is this question designed
4 to elicit a summary of all of the things that
5 Sergeant Markland learned when he went to school?

6 MR. GIUFFRA: I will rephrase the
7 question.

8 BY MR. GIUFFRA:

9 Q Were there specific classes in the
10 preservation of crime scenes at the various schools
11 that you testified you've attended?

12 A Yes.

13 Q At which of these schools were there
14 courses on the preservation of crime scenes?

15 A All of the schools.

16 Q Let's focus on the school down in Georgia,
17 the Federal Training Center for Investigations.

18 MR. BEN-VENISTE: You will have to keep
19 your voice up today, Bob. It is too much effort
20 trying to hear you, either that or we will ask
21 Detective Markland to sit over here.

22 BY MR. GIUFFRA:

1 Q Detective Markland, can you understand what
2 I'm saying?

3 MR. BEN-VENISTE: The problem is I can't
4 hear you.

5 MR. GIUFFRA: Maybe you should sit over
6 here.

7 MR. BEN-VENISTE: I can't hear any better
8 unless you speak up. You really have a habit of
9 dropping your voice. Maybe if you sit back in your
10 chair, that will help you speak up.

11 BY MR. GIUFFRA:

12 Q Detective Markland, before we were
13 interrupted, just state for the record a little bit
14 about the training you received at the Georgia school
15 on crime preservation. Was it a class? Was it a
16 two-day class? A one-week class?

17 A I don't recall specifically what was said
18 in those classes. Very basically, crime scenes, you
19 want to preserve to keep them exactly the way they
20 were when you found them so that they can be
21 processed.

22 Q Do you remember if this training was in the

1 course of -- was it something that was taught in a
2 particular class on crime scene preservation or was
3 this something that was just covered during the
4 course of the entire training period in various
5 classes?

6 A I have had a number of classes that touched
7 on crime scene searches and preservation.

8 Q Let's discuss your experience with regard
9 to investigations of homicides and suicides. Roughly
10 how many homicide investigations have you been a
11 participant in?

12 MR. BEN-VENISTE: Do you want to fix a
13 time?

14 MR. GIUFFRA: During your entire career.

15 MR. BEN-VENISTE: Up until today?

16 MR. GIUFFRA: Yes. Richard, I would
17 appreciate it if you would allow me to examine the
18 witness without --

19 MR. BEN-VENISTE: I'm trying to be helpful
20 to maybe focus on areas of relevance.

21 THE WITNESS: You mean as an investigating
22 officer or as part of an investigating team?

1 BY MR. GIUFFRA:

2 Q Right. Your entire career.

3 A It really would be a two-part answer
4 because as a uniformed officer, I have been on the
5 scene of numerous death investigations where I played
6 a very limited role.

7 Q Let's focus on that first. How many would
8 you roughly estimate that you participated in? This
9 is just death investigations, being on the crime
10 scene.

11 A As a uniform officer, probably around a
12 dozen.

13 Q Did you participate in the sealing of crime
14 scenes in connection with those incidents?

15 A Yes.

16 Q And was that a standard procedure that you
17 undertook in connection with those incidents, to seal
18 off the crime scene?

19 A That's the basic responsibility of a
20 uniform officer, right.

21 Q Were any of these incidents suicide or did
22 they ultimately be determined to be suicides?

1 A At least two that I can recall.

2 Q Let's focus on investigations,
3 investigations into deaths. Roughly how many death
4 investigations have you participated in?

5 A Since going into narcotics and vice -- this
6 is now once I came out of uniform.

7 Q We are talking your entire career.

8 MR. BEN-VENISTE: He has already testified
9 about that.

10 THE WITNESS: Since going into narcotics
11 and vice, then making investigative detective, I
12 participated in four that I took no active part in
13 investigating and three where I was the investigating
14 officer before Mr. Foster's death.

15 BY MR. GIUFFRA:

16 Q What does it mean to be the investigating
17 officer?

18 A You investigate the death.

19 Q You are primarily responsible for
20 investigating --

21 A Not necessarily primarily responsible, but
22 part of the investigating team.

1 Q And roughly what was the time period of the
2 three in which you were primary investigating
3 officer, in which you were investigating officer?

4 A From 1988 until '93.

5 Q I have a recollection that you received an
6 award in connection with an investigation that you
7 did in Baltimore; is that correct?

8 A Yes.

9 Q Could you describe for the record a little
10 bit about that investigation.

11 A It was the Sky Alland murder.

12 Q Is that the name of the decedent?

13 A That was the name of the decedent. That
14 investigation took over a year. We ultimately got
15 two convictions from that case.

16 Q Did you spend a year investigating that
17 case?

18 A Over a year.

19 Q Was that your primary responsibility during
20 that year?

21 A Yes, it was.

22 Q Who was Sky Alland?

1 A He was a Laurel businessman, Laurel,
2 Maryland.

3 Q How was he killed?

4 A He was shot.

5 Q Who ultimately was convicted of his
6 murder?

7 MR. BEN-VENISTE: Is this really what we
8 are here to do, is to talk about the Sky Alland
9 investigation and how that case was solved and who
10 was prosecuted?

11 MR. GIUFFRA: I just want to get the man's
12 background.

13 MR. BEN-VENISTE: Of Sky Alland or of the
14 man who was convicted of killing Sky Alland? Whose
15 background are you trying to get here?

16 MR. GIUFFRA: Richard, let me ask the
17 questions. In these Senate depositions --

18 MR. BEN-VENISTE: How long do you expect
19 this deposition to last today? Let me go off the
20 record.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

1 Q Who was ultimately convicted of murdering
2 Mr. Allen?

3 A A man named John Bridges. I just drew a
4 blank on the second defendant. It may come to me
5 later.

6 Q What was the title of the award that you
7 received?

8 A It is a name I have to look at to
9 pronounce. It is the one award given out by the U.S.
10 Attorney's office in Maryland recognizing
11 investigative skill.

12 Q Were any of the death investigations in
13 which you were an investigator, were they suicides or
14 all homicides?

15 A They were homicides, all of them.

16 Q Was the -- the Foster investigation was
17 your first suicide investigation?

18 A They are all death investigations until a
19 determination is made. It was the first suicide,
20 yes.

21 Q I would like to show you a document request
22 which is dated May 26, 1995. This is from Chairman

1 D'Amato and Senator Sarbanes. This was sent to Chief
2 Langston. It was a request for documents related to
3 the handling of the papers in Mr. Foster's office
4 following his death.

5 Just to speed this up, all of your notes
6 and other materials that you prepared in connection
7 with your investigation into Mr. Foster's death, were
8 they turned over to either central filing system or
9 to one of your senior officers?

10 A Well, Captain Hume had possession of all of
11 my original notes and reports. I don't know of the
12 understanding that they were all turned over to the
13 FBI after that. Captain Hume had everything I ever
14 generated on this case.

15 Q On July 20, 1993, that was the date of
16 Mr. Foster's death?

17 A Uh-huh.

18 Q Who did you report to on that date?

19 A I was not working when Mr. Foster was
20 found. I came in at 6:00 a.m. the next morning.

21 Q On July 21, who were you reporting to on
22 July 21?

1 A I reported to my work site in Anacostia and
2 was ultimately given an assignment by Captain Hume.

3 Q Was he your supervisor at that point?

4 A Once I was given the assignment, it was
5 determined that he and I would go to the White House,
6 yes.

7 Q Who was the head of the criminal
8 investigations unit at the Park Police?

9 A Major Holmes.

10 Q So you reported to Major Holmes?

11 A No. Normally the chain of command is
12 sergeant, lieutenant, captain, major.

13 Q Who was the sergeant that you reported to?

14 A I didn't report to a sergeant that day. I
15 was met by Captain Hume. It was decided he and I
16 would go to the White House.

17 Q When you arrived at work on the 21st, who
18 contacted you first?

19 A Captain Hume.

20 Q And what did he say to you?

21 A I was briefed on the situation at Fort
22 Marcy.

1 Q What did he tell you about the situation at
2 Fort Marcy?

3 A That a body had been found, that
4 investigators were working the case through the
5 night, and that he and I would go to the White
6 House. He was a member of the chief counsel's
7 office. The body had been identified as Mr. Foster.

8 Q Did he indicate why you had been chosen to
9 accompany him to the White House?

10 A I was the only detective working then, and
11 also I was familiar with some people at the White
12 House.

13 Q Because you had worked there previously?

14 A Right.

15 Q Who did you know at the White House at that
16 point in time?

17 A I didn't remember any specific names or
18 contacts or keep anything current. It turned out
19 that Inspector Dennis Martin was the ranking uniform
20 official on duty at that time, and I had known him
21 when I worked there.

22 Q Did you have any discussion with Officer

1 Rolla that morning?

2 A I don't recall any specific discussions
3 with any of the investigators that worked the
4 previous night.

5 Q Sergeant Braun?

6 A Again.

7 Q Did you speak to Major Hines?

8 A No.

9 Q Did you speak to Chief Langston?

10 A No.

11 Q You just spoke to Captain Hume. Do you
12 recall anything else that Captain Hume said?

13 A Only that he was busy making assignments, I
14 believe, for Investigator Merrisette to attend the
15 autopsy. I don't recall any specific discussions.

16 Q At that point, were you aware of Vincent
17 Foster's pager? Was there any discussion of his
18 pager?

19 A During that day, I was. I can't recall
20 exactly when, if it was in the morning or later on.

21 Q What do you recall about the pager?

22 A That he had a pager.

1 Q Do you recall anything else?

2 A That it was issued to him by the White
3 House. I believe I was told there were no numbers
4 saved on it.

5 Q Was any attempt -- do you know if any
6 attempt was ever made to try to ascertain from the
7 pager company who Mr. Foster might have been paged by
8 that day?

9 MR. IVEY: Could we go off the record for
10 just a second?

11 MR. GIUFFRA: Sure.

12 (Discussion off the record.)

13 MR. GIUFFRA: Read back the pending
14 question.

15 (The reporter read the record as requested.)

16 THE WITNESS: I didn't even consider that.
17 I've dealt extensively with pager companies in drug
18 investigations. In my experience, the pager company
19 can only tell you how many times a pager has been
20 used for billing purposes, not what numbers were
21 called.

22 BY MR. GIUFFRA:

1 Q Do you know if an attempt was ever made to
2 try to ascertain the numbers that were on the pager?

3 A It was my understanding there were no
4 numbers on the pager.

5 Q There was no way to find out the numbers on
6 the pager that you are aware of?

7 A Right.

8 MR. BEN-VENISTE: He just said there were
9 no numbers on it, not that there was no way to find
10 out the numbers on it.

11 THE WITNESS: I was not aware and still am
12 not aware of any way to find out what numbers had
13 been on a pager, if that's the question you are
14 asking.

15 BY MR. GIUFFRA:

16 Q Did you review the investigatory reports
17 that were prepared by the officers the prior evening?

18 A At that point, no.

19 Q Now, Mr. Foster died from a gunshot wound;
20 correct?

21 A Right.

22 Q Was a determination -- this was not a death

1 from natural causes, so there was a need to conduct a
2 death investigation?

3 A In any case there would have been a need to
4 conduct a death investigation.

5 Q But no determination had been made on the
6 morning after he died that it was a suicide?

7 A No.

8 Q Was there any sort of preliminary judgment
9 at that point as to the cause of death?

10 A From all appearances up to that point, it
11 indicated suicide. But was there any judgment made?
12 No.

13 Q What would be standard Park Police
14 procedure until there was a determination that this
15 had been a death from a suicide? You would conduct a
16 death investigation with the assumption being that it
17 was a homicide investigation?

18 MR. BEN-VENISTE: I'm sorry?

19 MR. GIUFFRA: Let me strike the question.

20 BY MR. GIUFFRA:

21 Q Could you please state for the record what
22 is your understanding of a death investigation and

1 the course of a death investigation.

2 A To determine the cause of a death.

3 Q Okay, and until you determine the cause of
4 the death, what assumption does the investigating
5 officer operate under with regard to the possible
6 cause of death?

7 A You don't operate under any assumptions.

8 Q You just conduct a death investigation, but
9 you don't rule out a homicide until you make a
10 determination that death was caused by either natural
11 causes or suicide?

12 A Right. You don't rule out anything.

13 Q Do you recall when the Park Police finally
14 made a determination that this was a suicide?

15 A It would be in my reports. I can't
16 recall.

17 Q But it was sometime after the day you first
18 got on the case?

19 A Yes.

20 Q There was an investigation of several weeks
21 to make a determination as to whether it was a
22 suicide or not?

1 A The exact date it was made, I would have to
2 refer to reports.

3 Q But as of the date that you first got on
4 the investigation, you had not ruled out homicide as
5 a possible cause of death?

6 A No.

7 Q Do you know why Captain Hume and yourself
8 replaced Braun and Rolla in this investigation?

9 A I know they were extremely tired that
10 morning.

11 Q Do you know anything else about that
12 decision?

13 A It was made by Captain Hume.

14 Q That morning, you were at the central Park
15 Police headquarters here in Washington on Virginia
16 Avenue, I believe?

17 A No. Over at the criminal investigations
18 branch. It was the Anacostia operations facility.

19 Q So that's a separate facility where Chief
20 Langston and Major Hines are?

21 A Headquarters is 1100 Ohio Drive,
22 Southwest. That's where Chief Langston and Major

1 Hines work out of.

2 Q So, that morning, about what time was the
3 briefing with Captain Hume?

4 A I reported for work at 6:00 or actually
5 before 6:00 a.m., at or about 6:00 a.m.

6 Q At about what time did you drive to the
7 White House? Did there come a time when you drove to
8 the White House?

9 A Yes. We responded that morning. I would
10 really have to refer to my notes for the times.
11 Rough figures, around 9:00 a.m., I believe.

12 Q Do you recall what gate you entered the
13 White House through?

14 A The southwest gate.

15 Q So, that is the gate between the Old
16 Executive Office Building and the west wing on the
17 south --

18 A Right, on the south end of West Executive
19 Avenue.

20 Q Did you meet anyone -- you entered the
21 White House grounds and where did you go next?

22 A We were greeted by Inspector Martin and we

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1 proceeded to the west wing.

2 Q Now, had you had any prior contact with
3 Inspector Martin since leaving the Secret Service in
4 '78?

5 A I don't recall any conversations with him
6 at all. I had no idea of his rank until that
7 morning.

8 Q Did you work -- could you describe what
9 sort of relationship you had with Inspector Martin
10 when you were a member of the Secret Service between
11 '76 and '78?

12 A He was another officer that I worked with.

13 Q Were you social acquaintances at that point
14 in time?

15 A No.

16 Q Now, the ranking uniformed Secret Service
17 officer, that's the senior person in the uniform
18 division of the Secret Service at the White House?

19 A It would be the ranking officer. I mean,
20 senior has to do with longevity. Rank doesn't
21 necessarily --

22 Q He is the number one person, the boss?

1 A At that time.

2 Q And you entered the White House west wing
3 through the -- there is an awning and you go through
4 West Executive Avenue into the basement area of the
5 White House?

6 A You enter off of West Executive Avenue at
7 ground level into the west wing.

8 Q And that's where you entered on this
9 particular occasion?

10 A Yes.

11 Q What did you do next?

12 A Stood in the lobby.

13 Q About how long were you standing in the
14 lobby?

15 A I would have to refer to my notes to give
16 you an exact time. I stood there for quite a while.
17 We were under the impression we were beginning to go
18 up in the office. We were later told that we
19 wouldn't, and we left the west wing entirely to make
20 phone calls to Justice.

21 Q Let's go back. What was your understanding
22 of the purpose for your visit to the White House on

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1 the morning of the 21st?

2 A To search Mr. Foster's office and interview
3 his co-workers.

4 Q And what was going to be the purpose of the
5 search of Mr. Foster's office?

6 A To uncover any information that would help
7 us in our investigation.

8 Q Were you going to be looking for particular
9 types of documents in Mr. Foster's office?

10 A Particular types --

11 Q Suicide note, look through his diary.

12 A Anything that would indicate or give us a
13 lead in the direction of either suicide or a context
14 that would help us in the investigation. There was
15 no specific --

16 Q Now, when you entered the lobby of the west
17 wing in the basement, did you have any conversations
18 with anyone, including Captain Hume, at that point?

19 A Yes. Basically with Captain Hume,
20 Inspector Martin and a uniformed division officer
21 that was posted at that location.

22 Q When you say posted at the location, was he

1 sitting at the desk as you enter the west wing?
2 A His post is that desk/reception area.
3 Q Do you know the name of the officer who was
4 posted --
5 A It was Officer Abbott.
6 Q Do you know his first name?
7 A I know it is Bruce.
8 Q Did you know Officer Abbott prior to
9 entering the west wing on the 21st?
10 A It is possible, but I didn't recall knowing
11 him prior to that at all.
12 Q What does Officer Abbott look like?
13 A White male. He seemed to be about 5-10.
14 Q Does he have any distinguishing features?
15 A moustache?
16 A I don't recall.
17 Q Do you remember the color of his hair?
18 A I don't recall.
19 Q Do you recall anything else about his
20 appearance?
21 A He wore a name tag that said "Abbott."
22 Q Could you state for the record the nature

1 of the conversation that you had with Inspector
2 Martin, Officer Abbott and Captain Hume.
3 A Okay. I noticed that our chief, Chief
4 Langston, and Major Hines were talking with
5 Mr. Nussbaum further down the hall, and that the
6 chief --
7 Q This would be further down the hall in the
8 basement going back toward, say, where the Oval
9 Office is?
10 A Right. I don't know that I would refer to
11 it as basement. It was at ground level.
12 Q Further back to the east?
13 A Right, straight back to the east. They
14 were walking west toward our location. The chief had
15 what appeared to me to be -- what I later found out
16 to be a photostat copy of all the reports that were
17 generated on this case up until that time. I wasn't
18 too happy about that. I told Captain Hume basically
19 my feelings on that, wanted to know why the chief and
20 Major Hines were there anyway.
21 Q You say you were angry. Why were you
22 angry?

1 A Nobody at the White House had any business
2 seeing what was in our reports up until that time.

3 Q Was it your impression that the chief had
4 shown the reports to White House officials? Or had
5 handed out the report?

6 A It was my feeling, and I couldn't think of
7 any reason why he would have brought them if he
8 wasn't going to show them to somebody.

9 Q Did he have copies of the reports or did he
10 just have one copy in his hand? Multiple copies or
11 single copy?

12 A I believe it was one copy of whatever
13 reports had been generated.

14 Q Why did you think that was not an
15 appropriate thing to disclose to the White House
16 officials?

17 A It is no more proper to disclose it to them
18 than it is to the press or anybody else because it
19 involved an investigation.

20 Q Because it was an ongoing investigation and
21 there had not been a determination into the cause of
22 death?

1 A Yes.

2 Q So proper police procedure is not to
3 discuss the investigation with anyone?

4 A Yes.

5 Q Did you overhear any of the conversation
6 between Mr. Nussbaum and Chief Langston?

7 A No.

8 Q What do you recall next happening? Did you
9 say anything to Captain Hume?

10 A Yes. I asked him what they were doing
11 there and why did he have copies of reports. Captain
12 Hume had no idea either at that point.

13 Q Did he have similar concerns as those you
14 just expressed?

15 A I want to say I believe so, but he didn't
16 specifically relate any of them to me at that point.

17 Q And what happened --

18 A That was not a very good area for
19 discussing anything, given the amount of people
20 around. It was hard to have a private conversation
21 in that area.

22 Q What do you recall happening next at that

1 point?

2 A I believe I was asking Inspector Martin
3 about the alarm systems and what we could learn from
4 the control center based on the alarm systems at the
5 suite of offices that Mr. Foster's office was a part
6 of.

7 Q Why were you interested in the alarm
8 systems at that point in the investigation?

9 A I was under the belief that Mr. Foster's
10 office had been sealed the previous evening. I came
11 to find out that it wasn't exactly sealed but posted,
12 which meant that people had access to the office but
13 their comings and goings would be recorded by a
14 Secret Service agent.

15 Q Why were you under the impression that the
16 office had been sealed?

17 A I was told it was requested to be sealed
18 the evening before by the investigators.

19 Q That would be Sergeant Braun and
20 Investigator Rolla?

21 A Yes.

22 MR. BEN-VENISTE: Who told you?

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1 THE WITNESS: It was told to me by Captain
2 Hume.

3 BY MR. GIUFFRA:

4 Q Do you know whether Major Hines requested
5 that the office be sealed?

6 A No. Major Hines is a public information
7 officer. He had no part, to my knowledge, in this
8 investigation.

9 MR. GIUFFRA: Can we just take a break.
10 (Recess.)

11 MR. GIUFFRA: What was the last answer?
12 (The reporter read the record as requested.)

13 BY MR. GIUFFRA:

14 Q When you arrived at the southwest gate,
15 were any other law enforcement officers present with
16 you besides yourself and Captain Hume? Were there
17 any FBI agents there who you met with?

18 A They met us. I can't recall if they met us
19 in the west wing or at the southwest gate. But we
20 hooked up with a couple FBI agents as well as a
21 couple of Secret Service agents.

22 Q The Secret Service agents were Inspector

1 Martin --

2 A He is not an agent. He is uniform
3 division. I believe one's name was Condon and one
4 named Imbordino or something to that effect.

5 Q These would be the Secret Service?

6 A Secret Service.

7 Q Did you recall the names of the FBI agents
8 you met?

9 A One was Salter. I don't recall the other's
10 name.

11 MR. BEN-VENISTE: Off the record.
12 (Discussion off the record.)

13 THE WITNESS: I would really have to look
14 in my notes to give you the names.

15 BY MR. GIUFFRA:

16 Q The names you recall were Condon, Imbordino
17 and Salter?

18 A Those are the ones I recall.

19 Q They were either FBI or Secret Service
20 agents?

21 A I know Imbordino, and that might be a
22 bastardization of his name. He was definitely Secret

1 Service. Salter was definitely FBI.

2 Q Did you have any conversations with any of
3 these agents either on the way from the southwest
4 gate to the west wing or in the west wing that
5 morning?

6 A Just introductions or pleasantries.

7 Q Do you know why the FBI agents were present
8 that morning?

9 A Well, to assist us if we needed it, and I'm
10 also aware that given the jurisdiction, the FBI could
11 have taken over the case any time they wanted to.

12 Q And why was that?

13 A Because of the jurisdiction at Fort Marcy.

14 Q Because it was federal property?

15 A Right. Federal jurisdiction, the same way
16 they could have taken over the last case I worked on
17 because of the federal jurisdiction.

18 Q Now, you mentioned an interest in the alarm
19 in Mr. Foster's office, and you mentioned that you
20 became concerned because the office was not sealed.
21 Could you just state for the record how that
22 understanding came about with regard to the fact that

1 the office was not sealed? Did you have a
2 conversation with someone in which this subject came
3 up?

4 A With Inspector Martin and a brief
5 conversation I believe with Mr. Nussbaum that
6 morning, and they were all -- even though they were
7 different times and there was confusion as to what
8 time somebody was posted and who ordered it posted,
9 both of them agreed they had not been posted until
10 that morning at some point. I was under the
11 impression that it was posted the night before, after
12 Mr. Foster was identified. So I was upset about
13 that.

14 Q Did you raise the issue of the posting of
15 the office? Did you ask when was the office posted?

16 A I believe I did.

17 Q Who did you ask that question of?

18 A I believe it was Inspector Martin.

19 Q Did Inspector Martin recall you from your
20 time working at the Secret Service?

21 A He knew me, yes.

22 Q Now, what did Inspector Martin say to you

1 with regard to the posting of the office?

2 A Relayed the information that -- that's when
3 I found out that there had not been an agent posted
4 there until sometime during the morning.

5 Q Do you recall anything more specifically
6 about the conversation you had with Inspector Martin?

7 A No. This is almost two years ago.

8 Q Did Inspector Martin tell you that the
9 office had not been posted on the night of the 20th?

10 A Yes. He relayed that it had not been
11 posted until that morning at some time.

12 Q And was Mr. Nussbaum present during this
13 conversation that you had with Inspector Martin?

14 A No, I don't believe so.

15 Q And was this before you saw Mr. Nussbaum
16 and Chief Langston, or was this after you saw Chief
17 Langston and Mr. Nussbaum, this conversation?

18 A A short time after.

19 Q Let's just go back in terms of the sequence
20 of events. You see Nussbaum and Chief Langston
21 coming down the hall, moving from east to west along
22 the ground floor of the west wing.

1 A Uh-huh.
2 Q You did not overhear any of that
3 conversation?
4 A No.
5 Q Up until that point in time, had you had
6 any conversations of significance with either Martin
7 or anyone else from the Secret Service?
8 A No.
9 Q So, this was all just exchange of
10 pleasantries up until that point?
11 A Right.
12 Q And you never overheard any conversation
13 between Mr. Nussbaum and the chief?
14 A No.
15 Q Was there anyone else with Mr. Nussbaum and
16 the chief?
17 A Major Hines.
18 Q What happened next? Did the chief and
19 Major Hines go outside of the west wing?
20 A Yes.
21 Q Did you and Captain Hume then follow them
22 outside?

1 A No.
2 Q Did you have a discussion with them at any
3 point that morning while you were in the west wing
4 lobby?
5 A We said hello. I believe Captain Hume had
6 a short discussion with them. I did not.
7 Q Did Captain Hume relay to you anything
8 about the conversation that he had had with Langston
9 and Hines?
10 A No. Whatever it was, it was very brief.
11 Q Do you know whether the chief gave any
12 direction to Captain Hume?
13 A I don't believe so. There would be no
14 reason to.
15 Q So, at this point, the chief and the major
16 have left, you are in the lobby of the west wing
17 ground floor.
18 A Yes.
19 Q Who was present at that point?
20 A I specifically recall myself, Captain Hume,
21 Inspector Martin and Officer Abbott. That's all I
22 can specifically recall right now.

1 Q So there were about six people in the lobby
2 of the west wing?

3 A There were people back and forth walking,
4 regular White House staff.

5 Q Coming in and out?

6 A Right.

7 Q Then the first conversation of any
8 significance that you had with any of the people who
9 were with you at that point in the lobby was the
10 conversation where you discussed the sealing of the
11 office or the posting of the office, whether the
12 office had been posted the night before?

13 A Yes. Then I inquired about what I could
14 find out, what the alarm system could tell me.

15 Q Who did you make that inquiry of?

16 A Inspector Martin.

17 Q And what did he tell you about the alarm
18 system?

19 A He would get a printout for me and give it
20 to me --

21 Q And what would that printout --

22 A -- and he would explain what it would show

1 us.

2 Q What did he say it would show you?

3 A I don't think he explained it at that point
4 until he got the printout, came back and explained to
5 me.

6 Q So he then left and got the printout at
7 that point in time?

8 A Right.

9 Q And he brought the printout to you?

10 A Yes.

11 Q And what did he explain that the printout
12 showed? The persons entering the office?

13 A It doesn't show specific people entering an
14 office. I'm not sure that I should discuss this with
15 you, to tell you the truth. I can tell you that it
16 did not help me in any significant way.

17 Q I think you should tell us why. This is a
18 confidential transcript at this point.

19 A Until the hearings start, and then it is
20 televised.

21 Q What is your concern about discussing --

22 A It is White House security. It is really

1 not going to have very much bearing on any of this.

2 Q I can represent to you that we have already
3 discussed this very subject matter with White House
4 security in the course of the depositions that the
5 committee has taken so far.

6 MR. BEN-VENISTE: So why do you need to go
7 into it again?

8 MR. GIUFFRA: I would like to understand
9 what Sergeant Markland's understanding is with regard
10 to what he saw that morning.

11 THE WITNESS: What my understanding --

12 BY MR. GIUFFRA:

13 Q What were you shown?

14 A The printout of access and sealing of
15 certain areas.

16 Q Would this be for the entire west wing?

17 A For the area I was concerned with.

18 Q Just for the counsel's office?

19 A Right.

20 Q What did the document indicate to you, or
21 what did Officer Martin indicate that the document
22 showed?

1 A It didn't in any significant way help me to
2 narrow down specific people or instances where people
3 entered or exited Mr. Foster's office.

4 Q Did it indicate people who had entered the
5 office -- did it indicate times of entry and egress
6 from the office?

7 A I don't know how else I could put it. I am
8 not going to discuss the alarm system at the White
9 House with you.

10 MR. BEN-VENISTE: Off the record.

11 (Discussion off the record.)

12 BY MR. GIUFFRA:

13 Q It was a brief conversation you had with
14 him with regard to this particular document that he
15 showed you.

16 A I was given the document, and the alarm
17 system was explained to me.

18 Q And do you recall anything that he
19 explained to you about how the alarm system worked?

20 A Yes, I do.

21 Q You just don't want to speak about it?

22 A That's correct.

1 Q Why were you interested in trying to
2 determine who had been in Mr. Foster's office on the
3 night of his death, if anyone?

4 A I wanted to know specifically who had been
5 in there, for what period of time so that I could
6 interrogate them, ask them why they were there and
7 for what purpose and what they had found.

8 Q Did you have a reason to suspect that
9 someone had been in Mr. Foster's office on the night
10 of his death?

11 A I obtained information -- I don't recall
12 specifically from what source right now -- but that a
13 number of people had been in there for a period of
14 time of up to two hours.

15 Q Was this information that you learned from
16 speaking to Officer Martin?

17 A I don't believe so.

18 Q Did you learn this information --

19 A I believe it was partially from
20 Mr. Nussbaum, when I briefly spoke with him. I can't
21 recall right now who I obtained that from.

22 Q Did you possibly learn it from Officer

1 Imbordino?

2 A I can't recall. It is possible.

3 Q Would it have been from someone who was
4 working at the White House?

5 A Yes.

6 Q Did the security report that Officer Martin
7 showed to you indicate that there had been activity
8 in that office on the night of Mr. Foster's death,
9 that people had entered the office?

10 A Here we go again with the security systems
11 and how they work. Were there people on the second
12 floor of the west wing the previous night? I believe
13 it showed that.

14 Q But did it indicate that anyone had entered
15 Mr. Foster's office or the counsel's suite?

16 A I respectfully decline to answer that
17 question.

18 Q We are not asking whether --

19 A Yes, you are.

20 Q I am not asking you to tell me how the
21 security system works. What we are asking you to say
22 is --

1 A I cannot answer that question without
2 telling you how the security system works.

3 Q Sergeant, this is a subject that we have
4 gone over --

5 MR. BEN-VENISTE: Bob, this is the third
6 time you have done it. You are not going to convince
7 Sergeant Markland at this point that he ought to do
8 this. Let's move on to something else. Surely you
9 are flexible enough to move along, and then if you
10 need to come back to this at some later time, we will
11 call Sergeant Markland back.

12 MR. GIUFFRA: Let me just make one final
13 attempt.

14 BY MR. GIUFFRA:

15 Q I am not interested in learning how the
16 security system works or how the security system was
17 explained to you. All we are interested in
18 determining is whether, based on your review of the
19 security system, was it your understanding that some
20 person had entered that office on the night of
21 Mr. Foster's death, the counsel's suite?

22 A Mr. Foster's office and the counsel's suite

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1 are two different entities.

2 Q Based on your review or based on your
3 discussions with Inspector Martin, was it your
4 understanding that someone had entered the counsel's
5 suite on the night of Mr. Foster's death?

6 A Yes.

7 Q Do you know who the name of the person was
8 who entered the counsel's suite on the night of
9 Mr. Foster's death?

10 A Based on those -- no.

11 Q This would be based on the security records
12 that you were shown, the alarm records?

13 A No, no.

14 Q You don't know who but you know someone did
15 enter?

16 A To the best of my recollection at this
17 point, yes. There should be documentation in the
18 case file.

19 Q Do you know whether it was more than one
20 person who would have entered the counsel's suite?

21 MR. BEN-VENISTE: You are now still on the
22 issue of whether the alarm record that was reviewed

1 revealed that or from other sources? It is not
2 clear.

3 BY MR. GIUFFRA:

4 Q From the alarm record, could you tell the
5 number of people who had entered the counsel's suite?

6 A No.

7 Q Could you tell whether there was more than
8 one entry and exit during the course of the evening
9 from the alarm records?

10 A I would have to review the records.

11 Q Do you have any recollection?

12 A Not right now.

13 Q After you reviewed the alarm records with
14 Inspector Martin, what happened next? Did you have a
15 conversation with Mr. Nussbaum about the office?

16 A At that point -- at that time there was a
17 very brief introduction. To my recollection, Captain
18 Hume and I just waited. After his conversation with
19 the chief, we believed we would be going up to the
20 second floor shortly. So we just remained and waited
21 in the lobby area.

22 Q Did you have a conversation with

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1 Mr. Nussbaum at that point?

2 A I don't recall one that early on.

3 Q Did you have another conversation with
4 Officer Martin?

5 A I don't recall any.

6 Q Did you have a conversation with Officer
7 Abbott?

8 A Yes. I believe it was at that time that he
9 approached me and gave me some information which he
10 thought may or may not be significant.

11 Q Did Officer Abbott overhear you speaking
12 with Officer Martin about the alarm records to the
13 counsel's suite?

14 A I don't know.

15 Q What information did Officer Abbott give to
16 you?

17 A He advised me that Mr. Livingstone had come
18 down off the second floor earlier carrying a box
19 which he thought might contain papers. Like I said,
20 he didn't know whether it would be significant or
21 not.

22 Q Did he give you an approximate time in

1 which Mr. Livingstone brought this box down from the
2 second floor?

3 A He said early that morning, and I believe
4 this shift runs from 7:00 to 3:00. I was under the
5 impression it would have been shortly after 7:00 in
6 the morning. He did not give me a specific time.

7 Q Now, did he indicate to you that
8 Mr. Livingstone came off the elevator or down the
9 stairs?

10 A Just that he had come down from the second
11 floor.

12 Q Was Mr. Livingstone accompanied by anyone
13 else?

14 A He did not indicate that. I took it, when
15 he told me, that Mr. Livingstone was alone.

16 Q When you had this -- was there anything
17 more to the conversation that you had with Officer
18 Abbott?

19 A No.

20 Q It was a brief conversation?

21 A Right.

22 Q He just basically provided the information

1 that you have just testified to?

2 A Yes.

3 Q But Officer Abbott was concerned that
4 perhaps some documents might have been removed from
5 Mr. Foster's office?

6 A He did not voice those concerns. It was my
7 impression that this was something, and the only
8 thing he observed that morning, that may or may not
9 have any significance to our investigation. He did
10 not relay any concerns at all to me about that.

11 Q Did he indicate to you that he thought it
12 was unusual that Mr. Livingstone would be bringing a
13 box down from a higher floor at the White House to
14 the ground floor?

15 A It was a very brief conversation with the
16 officer. I didn't really have the time or space to
17 ask him.

18 MR. BEN-VENISTE: Is that a no?

19 THE WITNESS: What was the question again?

20 MR. GIUFFRA: Let's have the question
21 back.

22 (The reporter read the record as requested.)

1 THE WITNESS: I can just say no.

2 BY MR. GIUFFRA:

3 Q Did he indicate to you whether
4 Mr. Livingstone worked on the second floor of the
5 west wing?

6 A He indicated that it was someone that had
7 free access. Exactly where he worked out of he did
8 not indicate.

9 Q Did he describe to you Mr. Livingstone's
10 position at the White House?

11 A Only that he was White House staff. I
12 didn't come to find out until later his exact title.

13 Q Did he describe the type of box that
14 Mr. Livingstone had brought down from a higher floor
15 in the west wing? Was it a cardboard box?

16 A To the best of my recollection, he just
17 said box. I don't recall. It was my impression that
18 it was a cardboard box.

19 Q Do you have any understanding as to the
20 size of the box? Two foot long? One foot long? A
21 small box? Did it require two hands to be carried?

22 A I can't recall. It was my impression that

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1 it was a box that could contain -- it was large
2 enough to hold papers, not something that was very
3 bulky or something one had to struggle with to
4 carry.

5 Q When you had this conversation with Officer
6 Abbott, was anyone else present?

7 A There were people present, but the
8 conversation between us was private. I don't believe
9 anybody could overhear it.

10 Q Did you report your conversation with
11 Abbott to anyone else that morning?

12 A Captain Hume.

13 Q What did you tell Captain Hume?

14 A What Officer Abbott told me, what I just
15 told you.

16 Q What was Captain Hume's response?

17 A I just told him what Officer Abbott had
18 told me, and I told him I was going to talk to
19 Livingstone when I got a chance. There was no great
20 response from Captain Hume.

21 Q Did you discuss the conversation that you
22 had with Officer Abbott with anyone other than

1 Captain Hume?

2 A No.

3 Q So you did not discuss it with the FBI
4 agents who were present?

5 A I don't believe so, no.

6 Q Do you recall whether Officer Martin was
7 present during this conversation?

8 A I believe he was in the lobby, but he
9 wasn't present at the conversation. I don't recall
10 him being part of that conversation.

11 Q Did you at any point overhear Officer
12 Abbott provide similar information with regard to
13 Mr. Livingstone and the box to Officer Martin?

14 A I don't recall hearing anything like that.

15 Q So, you never heard Abbott and Martin
16 discuss what Abbott had just told you?

17 A No.

18 Q During the period when you were in the
19 lobby of the west wing, did you observe Abbott and
20 Martin speaking privately together, if you can
21 recall?

22 A Sure, there were times they spoke.

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1 Q Do you recall overhearing any of their
2 conversations?

3 A No.

4 Q Did Officer Abbott mention a briefcase to
5 you?

6 A No.

7 Q You don't have any recollection of him
8 discussing -- this is just to confirm this -- that
9 Livingstone was with anyone else?

10 A No.

11 MR. BEN-VENISTE: I think he recalls that
12 he didn't.

13 THE WITNESS: He indicated to me that
14 Livingstone was alone. He specifically mentioned
15 Livingstone and no one else. I'm clear with that.
16 He told me Livingstone came down from the second
17 floor with a box. He did not say there was nobody
18 else with him.

19 BY MR. GIUFFRA:

20 Q So it is possible someone else could have
21 been there?

22 A He did not give me a second, third, fourth

1 name. He just said Livingstone came down. It makes
2 no sense that he would tell me Livingstone came down
3 and not mention people with him.

4 Q Just so the record is clear --

5 MR. BEN-VENISTE: The record is pretty
6 clear.

7 BY MR. GIUFFRA:

8 Q Did Officer Abbott indicate to you either
9 the floor -- his belief as to the floor from which
10 Mr. Livingstone had brought the box? Did he say he
11 brought the box from the second floor to the ground
12 floor or did he say he thought it was from Foster's
13 office, either of those?

14 A The second floor.

15 MR. BEN-VENISTE: Is that the only thing
16 that he has to choose from, according to your
17 question?

18 MR. GIUFFRA: Richard, I would appreciate
19 it if you would allow me to conduct the examination.

20 MR. BEN-VENISTE: The problem is he has
21 testified several times about the substance of the
22 conversation. Now you have given him two choices,

1 neither of which were the subject of his prior
2 testimony.

3 MR. GIUFFRA: Well, it is certainly
4 permissible.

5 BY MR. GIUFFRA:

6 Q So, it is your recollection that he said
7 that he believed that Livingstone had come from the
8 second floor?

9 A He said he came downstairs. It is my
10 belief that there is only the second floor at that
11 point. There is no third and fourth floor to that
12 west wing there. Where he observed him come
13 downstairs, downstairs could mean down the elevator,
14 down the stairs, down from the floor above, it would
15 be directly to the officer's right. That is part of
16 why he is there in that lobby.

17 Q Isn't there -- just going through the
18 layout of the west wing, there is the ground floor
19 and there is a desk when you walk in, and then there
20 is the first floor where the Oval Office is, and then
21 there is a second floor where the counsel's office
22 is.

1 MR. BEN-VENISTE: Are you now testifying,
2 Bob? This is the problem here.

3 MR. GIUFFRA: Richard, this is not --

4 MR. BEN-VENISTE: If you want to question a
5 witness about his recollection, then you ought to do
6 that. I think it is inappropriate for you to start
7 testifying.

8 MR. GIUFFRA: I'm trying to jog this
9 witness's memory. I would appreciate it if you would
10 look through the transcripts of prior depositions
11 that have been conducted last year and also so far
12 during the investigation this year. Counsel for the
13 minority staff did not interrupt the examination of
14 counsel for the majority staff, nor did counsel for
15 the majority staff interject during examination by
16 counsel for the minority staff.

17 I would like to stick to that procedure.

18 MR. BEN-VENISTE: I am pleased to do it
19 except in circumstances where we are really getting
20 far afield, where there has been testimony and where
21 you are now testifying. I don't think that is
22 appropriate.

1 BY MR. GIUFFRA:

2 Q Officer Markland, is it your
3 understanding -- maybe we have the lobbies confused.
4 This was the lobby off of West Executive Avenue.

5 A Uh-huh.

6 Q Is there another lobby in front of the west
7 wing where there is a Marine guard?

8 A Not to my knowledge.

9 Q Do you know what floor the Oval Office is
10 on?

11 A My recollection is at ground level.
12 (Pause.)

13 Q After you had this conversation with Bruce
14 Abbott, what was the next conversation that you can
15 recall with anyone while you were in the lobby of the
16 west wing?

17 A I believe it was with Captain Hume, who I
18 believe had spoken with Mr. Nussbaum. And he was
19 under the impression that Nussbaum was going to
20 contact Justice, and we would then proceed to go into
21 Mr. Foster's office.

22 We then left the west wing, went over to

1 the Old Executive Office Building to get some lunch.

2 Q Let's go back. Did you ever have a
3 conversation with Nussbaum up to the point you went
4 and left the west wing lobby to go after lunch?

5 A I'm really unclear on the times. I would
6 have to refer to notes or something on that.

7 Q Do you recall anything more about the
8 conversation that you had with Hume about the
9 conversation Hume and Nussbaum had? Could you
10 overhear that conversation?

11 A No.

12 Q Do you recall any more about what Hume told
13 you that Nussbaum had said?

14 A He told me he said that he would contact
15 Justice.

16 Q That Nussbaum or Hume would contact?

17 A Hume told me that Nussbaum would contact
18 Justice. We later found out that was not the case or
19 apparently not what Mr. Nussbaum had related to
20 Captain Hume. Mr. Nussbaum apparently told Hume to
21 contact Justice. That's what we spent the rest of
22 the day doing.

1 Q Why were you to contact Justice?

2 A Because Mr. Nussbaum would not allow us in
3 the office without going through Justice.

4 Q Did Mr. Nussbaum give any explanation as to
5 why he would not allow you into the office without
6 contacting Justice?

7 A I did not have the conversation with
8 Mr. Nussbaum. Captain Hume did.

9 Q Did he give Captain Hume an explanation?

10 A I don't recall the captain ever explaining
11 that to me.

12 Q About what time was it that you left the
13 lobby of the west wing?

14 A I would say around noon, but that is very
15 approximate. I really can't be specific with these
16 times.

17 Q Would it be your recollection that you had
18 been in the lobby of the west wing at least for
19 several hours?

20 A It seemed like several days. I would
21 really have to refer to my notes.

22 Q But would several hours be a reasonable

1 estimate?

2 A It would be reasonable.

3 Q Now, you testified before about a
4 conversation that you had with regard to sealing of
5 the office. Was that with Nussbaum, that
6 conversation, or was that with Martin?

7 A I had a conversation with Hume about that
8 and Martin. At one point when I did talk to
9 Mr. Nussbaum, it was broached. Exactly when that
10 conversation was I couldn't give you a time on that.

11 Q Was it while you were in the west wing
12 lobby?

13 A I don't recall. It may have been in a
14 later conversation with Mr. Nussbaum in his office.

15 Q The conversation that you had with regard
16 to posting of the office, now that was with Officer
17 Martin?

18 A Yes.

19 Q How did that conversation come about?

20 A When I found out the office wasn't sealed
21 and when I found out what they meant by posted, I
22 wanted to know exactly when it was posted and who had

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1 access.

2 Q Who told you the office was not sealed?

3 A The best of my recollection, it was
4 Inspector Martin when I asked him what time it was
5 sealed and he found out and gave me the information.

6 Q Did he tell you who he spoke to to
7 determine whether the office had been sealed or not
8 sealed?

9 A Well, it was an agent who was posted at the
10 office. He didn't tell me who he spoke to, no.

11 Q Did he make a telephone call or did he go
12 up to the higher floor in the west wing?

13 A I don't recall.

14 Q He then -- this would be Officer Martin --
15 reported to you that the office was posted but not
16 sealed?

17 A He told me it was posted -- I can't
18 remember right now exactly when I found out that an
19 agent was posted there and would make entries of who
20 came and went. But a number of people had access to
21 the office.

22 Q What does it mean, at least what is your

1 understanding of sealing of an office?

2 A Seal, nobody goes in, nobody goes out,
3 except for the investigating officers.

4 Q And in the case of the investigation into
5 the death of Mr. Foster, why did you believe it was
6 appropriate to seal the office?

7 A Because it may well have been an extension
8 of a crime scene in the death investigation.

9 Q Why did you think it might be an extension
10 of a crime scene in a death investigation?

11 A I had no reason to think that, but I am
12 going to think that way until I find out differently.

13 Q Was there anything that led you to believe
14 it was necessary to seal the office, any --

15 A It should have been done as a matter of
16 routine police procedure the evening before, once
17 Mr. Foster was identified.

18 Q Why would it be a matter of routine police
19 procedure to seal the office?

20 A Because unless we find out any different,
21 it may well have been an extension of the crime
22 scene, the crime scene extended, where somebody was

1 immediately before they were killed or died, you
2 don't know. Once it is not preserved, then its value
3 diminishes almost to a nonexistent value on what you
4 are going to find later.

5 Q In the case of the investigation into
6 Mr. Foster's death, what sort of evidence did you
7 believe might be contained in his office?

8 MR. BEN-VENISTE: Are you talking about
9 Sergeant Markland's belief on the 21st?

10 MR. GIUFFRA: Yes.

11 THE WITNESS: What you want to do is kind
12 of reconstruct the last minutes, hours, days,
13 whatever it takes, of a person's life to see what his
14 frame of mind was, the last people he talked to so
15 you can interview them. It is just kind of a wide
16 open thing.

17 But unless you have control over that
18 entire circumstance, it is not very useful
19 information.

20 BY MR. GIUFFRA:

21 Q At that point in the investigation, had you
22 been advised that the last location at which

1 Mr. Foster had been seen while he was alive was his
2 office?

3 A At what point?

4 Q That morning, the 21st, was it your
5 understanding that the last location at which
6 Mr. Foster was seen alive was his office?

7 A Yes. We didn't have any information to the
8 contrary.

9 Q So that the Park Police believed that the
10 office was an important location to seal?

11 A Yes.

12 Q And there had not been a determination at
13 that point that Mr. Foster had died from a suicide?

14 A Say that again.

15 Q The Park Police had not determined as of
16 the 21st that Foster had died of a suicide?

17 A No.

18 Q So you had not ruled out the possibility --

19 MR. BEN-VENISTE: Didn't you spend about 15
20 minutes doing this, more toward an hour and a half
21 ago? I think we are never going to finish these
22 depositions in time to hold our hearings if you are

1 going to go over each and every point three or four
2 times.

3 MR. GIUFFRA: Richard, I think the
4 deposition would be concluded more promptly if you
5 would just allow me to conduct my examination in the
6 same manner and with the same courtesy that I and
7 other members of the majority staff accord to the
8 minority staff during their examination.

9 If you would just let me ask my questions.

10 BY MR. GIUFFRA:

11 Q At this point in the investigation on the
12 21st when you are sitting in the west wing and the
13 issue of the sealing of the office comes up, had the
14 Park Police ruled out that Mr. Foster's death was
15 from possible foul play?

16 A No. There was no determination on the
17 death made and no -- no.

18 Q So, the cause of death was an open matter
19 at that point?

20 A Right.

21 Q Mr. Foster could have been the victim of a
22 homicide at that point?

1 A Yes.

2 Q And in a homicide investigation, you would
3 want to seal off the victim's office --

4 A Yes -- well --

5 Q -- if the victim was found in another
6 location?

7 A It is a broad general statement I wouldn't
8 want to make.

9 As a police investigator, you always want
10 to get everything you can. If you were killed
11 tomorrow, if I could seal off this building and your
12 house and the last store you went to, I would do it.

13 Q In the case of the Foster investigation,
14 did you want to seal off the office in order to
15 determine Mr. Foster's movements in the last hours of
16 his life? Was that a consideration?

17 A Yes, and anyone that he had recent
18 conversations with or had contact with or indicated
19 frame of mind.

20 Q Would you have been interested in knowing
21 what matters Mr. Foster had been working on on the
22 day that he died?

1 A Sure.

2 Q Why might you be interested in determining
3 what those matters were?

4 A To see if there were any possible threats
5 against him because of those matters; to see if there
6 was anything that, as it turns out, that would have
7 bothered him; if he had gotten any personal bad news
8 or professional ruin or anything that might help the
9 investigation.

10 Q Would it be relevant to you to know the
11 condition of the papers -- strike that question.

12 Would it be relevant to you to know whether
13 the papers in Mr. Foster's office on his desk were
14 neatly arranged or sloppily arranged?

15 A Sure.

16 Q Why would that be?

17 A It would indicate a state of mind. Of
18 course, that conclusion would all depend on how he
19 usually arranges his papers, and then we had a whole
20 staff to question about that.

21 Q So that if someone had gone into
22 Mr. Foster's office before the investigating officers

1 and changed the positioning of papers in his office,
2 that would have impeded your investigation?

3 A It could have. Not necessarily. You would
4 want to talk to that person and say why did you do
5 this and how were the papers arranged before and what
6 did you do. That's all part of why you would want to
7 leave that whole office untouched, so that you could
8 have a controlled experiment, in a way, and go from
9 there.

10 Q When you learned that the office had
11 been -- let's stop right here.

12 (Recess:)

13 BY MR. GIUFFRA:

14 Q Sergeant Markland, just to sort of give
15 you -- maybe to restate what the objective of this
16 deposition is, what we are trying to do is just get
17 as much information from you as possible, the best of
18 your recollection, with regard to the events
19 surrounding your role in the investigation into
20 Mr. Foster's death. No trick questions.

21 Sometimes, for example, if I might ask you
22 a question with regard to, for example, police

1 procedure that may seem like an obvious question to
2 you, it is not going to be -- your answer is going to
3 be important to the Senate because you are someone
4 who has experience in police procedures, and we also
5 need to have a record with regard to your
6 understanding of police procedures.

7 So what I will try to do, just talk as much
8 as you possibly want, because that is probably the
9 best way to get the information out in as economical
10 a fashion as possible.

11 There are no tricks. If at any time you
12 don't understand one of my questions, let me know.
13 Okay?

14 A Okay. I just have to tell you, though, the
15 times and the time frames from showing up at the west
16 wing the one morning to finally getting into the
17 office on the afternoon of the second day, the times
18 all kind of run together without some written
19 recollection. It has been a long time.

20 Q We fully appreciate that.

21 Did there come a time when you learned that
22 Mr. Foster's office had been posted?

1 A Yes.

2 Q Why don't you tell us about that
3 conversation and who you had it with.

4 A I believe that was with Inspector Martin on
5 the first morning I was at the west wing. As I
6 stated, I was surprised to find that it hadn't been
7 posted or actually sealed the evening before. I was
8 told the investigators had requested that, and I
9 wanted to know exactly when it was posted and who had
10 access to the office, which is why I requested the
11 alarm record from that section of the west wing.

12 Q Did Officer Martin say anything to you with
13 regard to his understanding as to whether there had
14 been a request made to seal the office?

15 A I don't believe so.

16 Q Was he in any way surprised that there had
17 been a request made to seal the office?

18 A No.

19 Q Do you know if he ever checked to see
20 whether there had been a request made by Park Police
21 officers to seal the office on the night of
22 Mr. Foster's death?

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1 A I really couldn't say what he checked. I
2 can't answer that. He didn't convey anything to me
3 that he would check that.

4 Q When you had the conversation with Officer
5 Martin, was Captain Hume present?

6 A Yes.

7 Q Were the FBI agents present?

8 A I believe so, but I don't specifically
9 recall.

10 Q But that would be your general
11 recollection?

12 A I can't say in certainty. Many of the
13 conversations that Captain Hume and I had did not
14 include personnel from other agencies.

15 Q Did Officer Martin convey to you any reason
16 why the office was not sealed the night before?

17 A Did he let me know that it wasn't sealed?

18 Q He told you it wasn't sealed.

19 A Yes.

20 Q Did he tell you why it wasn't sealed?

21 A No.

22 Q Did you ask him why it wasn't sealed?

1 A No. It was my understanding that Inspector
2 Martin just came on duty that morning also. He would
3 not have been working the night before.

4 There were other Secret Service agents with
5 us at the time who were responsible for staying with
6 us and escorting us through the complex. They knew
7 we were upset over why the office wasn't sealed, and
8 they couldn't provide any answers.

9 Q You were upset that the office wasn't
10 sealed?

11 A Yes. I was surprised, very surprised to
12 find out that it wasn't.

13 Q Was Captain Hume also upset that the office
14 wasn't sealed?

15 A I believe so.

16 Q And you were upset because you feared a
17 loss of evidence?

18 A Right.

19 Q What did Officer Martin say to you about
20 the posting of the office? Did he say --

21 A He told me at what time it was posted.

22 Q What time did he tell you it was posted?

1 A I don't recall. It was that morning,
2 though. It was right around the time we arrived at
3 the White House.

4 Q Did he say who had given the instruction to
5 post the office?

6 A It was never very clear. Apparently
7 Mr. Nussbaum had made a request that morning at
8 around the same time that Inspector Martin requested
9 it, after our conversation.

10 Q So, it was your understanding that
11 Mr. Nussbaum had made a request to seal the office
12 sometime that morning?

13 A Yes.

14 Q What was the basis for your understanding?

15 A Mr. Nussbaum at some point told me that.

16 Q Do you know whether --

17 A It was actually before we had gotten
18 there.

19 Q So, Mr. Nussbaum told you that he had asked
20 that the office be posted that first morning in the
21 west wing basement when you had a conversation with
22 him?

1 A I'm not certain which conversation it was
2 with Mr. Nussbaum and I. It might have been that
3 one. It might have been a conversation in the
4 afternoon.

5 Q Did Inspector Martin then describe to you
6 what posting of the office meant?

7 A Right.

8 Q What did he say?

9 A That there is an agent posted who records
10 when people go in and out of the office.

11 Q Did Inspector Martin indicate whether
12 persons going in or out of the office could remove
13 documents from Mr. Foster's office?

14 A I don't recall the conversation with him at
15 that point. To the best of my recollection, it would
16 be possible, but the agent would note who removed
17 what, and for what purpose, on a log.

18 Q At that point in the conversation,
19 Inspector Martin, it is your understanding, made a
20 request that the office be posted?

21 A After I had the conversation, are you
22 asking?

1 Q Yes. What did he do?

2 A He went to check on that and advised me
3 that it was posted and at what time it was posted
4 that morning.

5 Q Do you know if he went up to the second
6 floor?

7 A I don't know. I don't recall.

8 Q Do you recall anything more, other than
9 what you have testified to here this morning, about
10 that first morning in the west wing lobby?

11 A As far as the conversation with
12 Mr. Livingstone, when I talked to him, I can't right
13 now recall exactly when that was. I recall a
14 conversation. I'm not sure if it was that morning,
15 before that afternoon or a different time right now.

16 Q But you ultimately did speak with
17 Mr. Livingstone?

18 A Yes.

19 Q How did you come to speak with
20 Mr. Livingstone?

21 A He was pointed out to me as he was crossing
22 the lobby by Officer Abbott.

1 Q And what did Officer Abbott say to you as
2 Livingstone was crossing the lobby?

3 A Something to the effect that that's
4 Mr. Livingstone.

5 Q Did he say that was the guy who had the
6 box?

7 A He called him by name. Then I went and
8 stopped Mr. Livingstone. He crossed from north to
9 south, and I stopped him south of the desk. And I
10 asked him questions about the box and where did it
11 come from.

12 Q Was anyone else present when you had this
13 conversation with Mr. Livingstone?

14 A No. Well, was anyone present? Yes.
15 Captain Hume was there, Abbott was there. I don't
16 know who else was there. But I stopped him away from
17 the group to try to keep some kind of semblance of a
18 private interview with him. I asked him a couple
19 very simple questions.

20 Q What were the questions you asked him?

21 A I introduced myself, and I told him that he
22 was seen coming downstairs with a box of papers, and

1 I said that. I wanted to get his reaction to that.
2 Then I asked him if he had gotten them from Foster's
3 office and if he had been in Foster's office. To
4 both those questions, he said no, they were from
5 another location. So that's it. I just wanted to
6 lock him in to those questions in case something came
7 up later.

8 Q When you said -- when you asked the
9 question about the box with papers in it --

10 A I didn't ask a question about the box. I
11 made a statement to see if he would deny it or not,
12 and he did not.

13 Q He did not deny that the box contained
14 papers?

15 A I said you were seen coming downstairs with
16 a box of papers early this morning, period. He
17 didn't deny that.

18 Q What was his response?

19 A No alarm at all. Well, it was obvious that
20 he had been crying earlier. His face was kind of
21 puffy. He wasn't alarmed or anything. Then I asked
22 him specifically if he had gotten the papers from

1 Foster's office, and if he had been in Foster's
2 office.

3 Q But he did admit to bringing a box down
4 from somewhere higher up in the White House?

5 A He did not deny it. He was not alarmed by
6 it. It's a little bit different than admitting it.
7 When I asked if he had gotten them from Foster's
8 office or if he had been in Foster's office, he
9 denied both of those and said this comes from a
10 different place up on the second floor, whatever, but
11 not from Foster's office. He indicated it came from
12 a different location.

13 Q Did he indicate the location the box had
14 come from?

15 A No. At that point, like I said, we are in
16 the lobby. I just wanted to get him locked into
17 something on that information from Abbott, come back
18 to it later if I had to.

19 Q Do you recall Livingstone saying anything
20 about the second floor?

21 A In what way? Nothing specific.

22 Q Do you recall him saying the box was from

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1 someplace else on the second floor of the west wing?

2 A He said it was from another office. I said
3 came down from upstairs, and then I made reference to
4 Foster's office. He just indicated it was from
5 another office.

6 Q He didn't say anything more about what
7 office it was from?

8 A No.

9 Q Did he indicate to you his office was on
10 the same floor as Foster's?

11 A No.

12 Q Did he indicate he had worked with Foster?

13 A No. It was very quick conversation at that
14 point. I wanted to lock him into those two things.
15 He did give me his card, offered any assistance he
16 could. I think his title was chief of White House
17 security, which had me totally baffled.

18 I asked the agents about what the heck that
19 was later on. It was a very short conversation.

20 Q Why were you totally baffled?

21 A What is the Secret Service doing? What is
22 the chief of White House security? What is he

1 doing? He just didn't strike me as a very important
2 person.

3 Q What did Mr. Livingstone look like?

4 A White male, late 30s, maybe, kind of
5 pudgy. Like I said, he had been crying. He was not
6 a presence, if you know what I mean.

7 Q Did you discuss the conversation you had
8 with Livingstone with anyone?

9 A Captain Hume.

10 Q Basically just relayed the facts?

11 A Yes.

12 Q Did you discuss it with anyone else?

13 A At what point?

14 Q That morning.

15 A No.

16 Q Did you have any other conversations that
17 would be relevant to the matters that the committee
18 is now looking into that morning in the west wing?

19 A Not that I can recall. Well, as a matter
20 of fact, you say discussed about Livingstone. I
21 brought it up to the agents about Livingstone, and I
22 think they were probably aware already of what Abbott

90

1 had relayed to me.

2 Q This is the FBI agents?

3 A No, no. Secret Service agents.

4 Q Do you know whether the Secret Service
5 agents spoke to Abbott about what Abbott told you he
6 had seen?

7 A I don't know. More than likely Martin did
8 and possibly relayed it to them. The agents were
9 not, to my knowledge anyway, investigating anything
10 or trying to ascertain any kind of information from
11 anyone. They were more as an escort to the Park
12 Police and FBI personnel that were eventually there.

13 Q To the best of your belief, Martin did
14 speak to Abbott?

15 A I don't know. It seems natural that he
16 would.

17 Q But you don't know whether he did?

18 A I don't know for a fact, no.

19 Q Can you recall anything more about that
20 morning?

21 A Just the frustration of waiting around, not
22 being able to do anything. That was relayed to

1 everybody I ran into that morning and that day and
2 the next morning.

3 (Pause.)

4 Q So, sometime about noon-ish?

5 A As best as I can recall.

6 Q You left the west wing lobby and went to
7 the Old Executive Office Building?

8 A Right.

9 Q With Captain Hume?

10 A And Secret Service agents.

11 Q Escorts?

12 A Well, to their office to make --

13 Q Go ahead.

14 A Like I said, it is all running together
15 here. At one point we left and came back. We were
16 in offices over at the Old Executive Office
17 Building.

18 Q These were Secret Service offices?

19 A Offices that the agents have in the Old
20 Executive Office Building, yes. We did that to go
21 back, and Captain Hume made calls to Justice. Once
22 we had -- we had actually returned to the west wing

1 once and Mr. Nussbaum came down and asked us what we
2 were doing there. I'm like, what are you talking
3 about.

4 Q Let's go back again. So you left the west
5 wing basement, went to the Old Executive Office
6 Building and then returned back to the west wing
7 basement?

8 A I think we actually left the complex, went
9 back to Anacostia, and then returned to the west
10 wing, at which point Mr. Nussbaum asked us what we
11 were doing there --

12 Q The conversation with Mr. Nussbaum, was
13 that in the lobby of the west wing?

14 A Yes, because we were just sitting on a
15 little -- we were just in a little corner of the
16 lobby thinking that, like I said before, Mr. Nussbaum
17 was going to contact Justice and bang zoom, we would
18 go do whatever we wanted to do.

19 However, Mr. Nussbaum came walking through
20 and said what are you doing here. Captain Hume had a
21 conversation with him and said you were going to call
22 Justice. Mr. Nussbaum said no, I told you to call

1 Justice.

2 Once that happened, we left the lobby and
3 went over to the Old Executive Office Building, and
4 that's when Captain Hume made a series of calls to
5 people in Justice to arrange for the attorneys to
6 come down.

7 Q What was Mr. Nussbaum's manner toward
8 Captain Hume and yourself at this point?

9 A His manner?

10 Q How was he behaving?

11 A He was rude and abrupt.

12 Q Did he raise his voice?

13 A No.

14 Q Had someone advised him that you were in
15 the lobby?

16 A I don't know.

17 Q But he came down from where his office was
18 or was he just passing through the lobby?

19 A As best I can recall, he was passing
20 through from west to east. But I'm not positive.

21 Q You had met him earlier in the morning so
22 you knew who he was?

1 A He was one of the first people I saw and
2 found out who he was when we arrived that morning.
3 Like I said, he had been talking to the chief and
4 Major Hines.

5 Q In that first conversation, was there
6 anything he said to you?

7 A Not that I can recall.

8 Q Can you recall any more about the
9 conversation, the second conversation you had with
10 Mr. Nussbaum in the lobby of the west wing?

11 A The second --

12 Q This is the conversation you just testified
13 to, where he told you that there had been a
14 misunderstanding as to who was going to call the
15 Justice Department.

16 A It was more between he and Captain Hume,
17 because Captain Hume had talked to him earlier about
18 who was going to contact Justice. It was directed to
19 Captain Hume.

20 Q Were you present during the first
21 conversation between Nussbaum and Hume?

22 A No.

1 Q This had been relayed to you by Hume?

2 A Right.

3 Q Hume had told you that it was his
4 understanding that Nussbaum was going to call the
5 Justice Department?

6 A Yes.

7 Q And the Justice Department was going to
8 coordinate the search of the office?

9 A Right, that everything would be coordinated
10 between Justice and White House counsel's office.

11 Q Did Captain Hume say anything to you about
12 whether he thought that was an unusual procedure?

13 A No, because -- the whole circumstance and
14 responding to the White House to investigate
15 something, there is nothing usual. I don't know
16 anybody that has had to deal with the White House
17 before on that level.

18 Q How long was the second conversation with
19 Nussbaum?

20 A When he, in effect, kicked us out of the
21 lobby? It was very short.

22 Q Did he kick you out of the lobby?

1 A He said "what are you doing here?" He
2 said, no, I called you to contact Justice.

3 Q And get out?

4 A No, he didn't say get out. But it was
5 implied.

6 Q He did not make you feel welcome?

7 A No.

8 Q Then you go over to the Old Executive
9 Office Building and Captain Hume then made phone
10 calls?

11 A For the rest of the day he made phone
12 calls, calling a number of people at Justice.

13 Q Did Mr. Nussbaum tell Captain Hume who he
14 should call?

15 A Not to my knowledge.

16 Q Now, do you know who Captain Hume called
17 while he was in the Old Executive Office Building?

18 A There is, I believe, a list of some names
19 and numbers. He used my note pad to record the
20 numbers he was calling. I believe he started with
21 the Attorney General's office to get the numbers he
22 needed.

1 Q Did he speak to the Attorney General?

2 A I have no idea.

3 Q Did he speak to Mr. Heymann?

4 A I have no idea. I know at some point he
5 spoke to Mr. Heymann. Or at least his office. I
6 couldn't say.

7 Q About how long were you in the Old
8 Executive Office Building that afternoon,
9 approximately?

10 A I believe a few hours. It was the rest of
11 the day. I don't recall.

12 Q Do you recall anything more about the
13 conversations that Captain Hume made?

14 A The phone calls he made?

15 Q While he was in the Old Executive Office
16 Building.

17 A No.

18 Q Did you make any phone calls?

19 A No.

20 Q Did Captain Hume contact anyone from Park
21 Police headquarters?

22 A I don't know for certain, but I'm sure he

1 did. Headquarters? I don't know about
2 headquarters. He would have kept somebody abreast of
3 what was happening. It may have been Major Holmes
4 over in the criminal investigations branch. It may
5 have been Major Hines over at headquarters. I don't
6 know. But it makes sense that he would have been in
7 contact with someone.

8 Q Do you recall Captain Hume using the
9 expression "stonewalling" to describe what had
10 happened that day?

11 A Specifically that word, no.

12 Q Do you ever recall Captain Hume using the
13 word "stonewalling" to describe the White House's
14 response to the Park Police's attempt to do this
15 investigation?

16 A He may or may not have. Every time I hear
17 that word anymore, I think of Investigator Rolla, and
18 he wasn't there. So I don't know. I don't recall --
19 I'm not certain. I couldn't say.

20 Q Why do you think of Investigator Rolla with
21 regard to stonewalling?

22 A Because they used it millions of times last

1 year.

2 Q At the hearings?

3 A Yes.

4 Q Did he use that expression before the
5 hearings, to the best of your --

6 A I don't -- it is permanently etched in my
7 mind, the hearings and Rolla.

8 Q Do you recall Captain Hume indicating to
9 you that the Department of Justice had any complaints
10 with regard to the White House at this point?

11 A Not at that point. He certainly didn't let
12 me know if they voiced any complaints with him. Once
13 they were contacted, the attorneys were ultimately
14 contacted, I was under the impression that everything
15 had been worked out, to come the next morning. Of
16 course, I felt like they were working for us the way
17 the prosecutor's office had worked for us and defense
18 attorneys work things out.

19 I did not hear any remarks from either of
20 those attorneys or hear them disagreeing with any of
21 the White House counsel's office on anything.

22 Q Do you recall a meeting on the 21st in

100

1 Mr. Nussbaum's office? Do you recall attending such
2 a meeting later that day? This would be the first
3 day of the investigation.

4 A I believe I had a brief conversation with
5 Mr. Nussbaum in his office.

6 Q Do you recall going up to Mr. Nussbaum's
7 office?

8 A I believe it was the first day. Like I
9 said, without notes -- but there was a meeting
10 between myself and Mr. Nussbaum in his office.

11 Q Do you recall whether anyone else was
12 present?

13 A I want to say Neuwirth.

14 Q That would be Steve Neuwirth?

15 A I believe so.

16 Q He was a lawyer in the White House
17 counsel's office?

18 A Yes.

19 Q Was Captain Hume present?

20 A I don't think so, not at that time.

21 Q Do you recall whether anyone from the
22 Justice Department was present?

1 A No, there wasn't. The first time I spoke
2 with Mr. Nussbaum, there was no other attorneys
3 present. It was more of he wanted to relay to me or
4 he told me that there was nothing out of the ordinary
5 with Mr. Foster in the last few days, there is
6 nothing he should have been distressed about.
7 Mr. Nussbaum wanted to express that he wanted to
8 cooperate fully with the investigation, and that was
9 basically it.

10 Q Do you recall seeing a guard posted in
11 front of Mr. Foster's office?

12 A There would have been at that point. I
13 don't recall. If there was one there, I would have
14 had to have seen him.

15 Q Do you recall any discussion with regard to
16 when you would be allowed to enter Mr. Foster's
17 office?

18 A With Mr. Nussbaum?

19 Q Yes.

20 A No.

21 Q Do you recall discussing why the office had
22 not been sealed on the night of Mr. Foster's death

1 with Mr. Nussbaum?

2 A No.

3 Q Do you recall any more about this meeting
4 with Mr. Nussbaum?

5 A It was very brief. There was nothing very
6 significant really.

7 Q Do you know why you were invited to meet
8 with Mr. Nussbaum?

9 A I really can't recall.

10 (Pause.)

11 Q When you were at the Old Executive Office
12 Building, were the FBI agents with you at that point
13 in time?

14 A I don't believe so. I only remember being
15 in there with the Secret Service agents.

16 Q Do you know what the FBI officers were
17 doing while you were at the Old Executive Office
18 Building?

19 A No. My first recollection, really, of them
20 being around, was when we got into Foster's office.

21 (Pause.)

22 Q Sergeant Markland, I would like to show you

1 a document which we will mark as Park Police
2 118-129.

3 (Park Police Exhibit 118-129 identified.)

4 BY MR. GIUFFRA:

5 Q If I could just stand with you so we could
6 have this go quickly. If you could just look through
7 this document that I just handed you, Park Police
8 Exhibit 118 to 129.

9 (Witness examined the document.)

10 A Okay. I assume this is the order that my
11 notes were in.

12 Q Does this appear to be your note pad that
13 you had on the Foster investigation?

14 A Yes, right.

15 Q And it is normal practice for a Park Police
16 officer to maintain a note pad such as this note pad?

17 A Everybody does it a little different, but
18 to maintain a note pad, yes.

19 Q Why do you maintain a note pad? This is
20 one of those questions where it is an obvious
21 question but I need to get it down on the record.

22 A To record information.

1 Q About your investigation?

2 A Right.

3 Q And do you try to be accurate in recording
4 information in your note pad?

5 A Yes.

6 Q Was this particular note pad that was used
7 in Mr. Foster -- the investigation into Mr. Foster's
8 death?

9 A Yes.

10 Q Were you the only one who used this note
11 pad?

12 A No.

13 Q So Captain Hume also used the note pad?

14 A Yes.

15 Q Is that standard?

16 A No.

17 Q Why did he use your note pad?

18 A He forgot his.

19 Q Let's just go through the entries in the
20 note pad. If you recall -- maybe they will refresh
21 your recollection about certain events that you
22 talked about so far.

1 The first entry appears to be "family
2 attorney, James Hamilton" and a telephone number. Is
3 this your handwriting?

4 A Yes.

5 Q And then "Web Hubbell," is that your
6 handwriting as well?

7 A Yes.

8 Q Do you recall how you came upon that
9 information?

10 A I believe this page was when we went --
11 Hamilton and Hubbell, those numbers and names were
12 given to me by Hume to call when the body can be
13 released. I think these notes were all taken after
14 we went back to our offices on that first day.
15 Because at this entry here, this is at 1:00 p.m., I
16 notified Catherine Gallagher from Webster Hubbell
17 about the body.

18 Q Were you taking notes between the time when
19 Captain Hume first spoke to you about Foster's death
20 and when you met with Mr. Nussbaum on the afternoon
21 of the first day of your investigation?

22 A I didn't start taking notes until we got to

1 the White House.

2 Q So, you would have started to take notes on
3 the morning of July 21st?

4 A Correct.

5 Q And would you have taken your notes in sort
6 of chronological order as things happened?

7 A Not always. Such as this entry about
8 Livingstone, I wrote this sentence down that he came
9 down the stairs, officer Bruce Abbott observed.

10 Q Let's just --

11 MR. BEN-VENISTE: Let him finish his
12 answer, okay.

13 THE WITNESS: I later came back. And this
14 entry that says "records" with a question mark is
15 just supposition on my part. I found Livingstone had
16 been to Fairfax to ID the body. I put that in
17 later -- so it is not always chronological -- and
18 with a time in the margin.

19 BY MR. GIUFFRA:

20 Q So you might add additional facts to your
21 notes as you learn them?

22 A Right. Especially this case, I didn't see

1 any importance for times so much when I talked to
2 people. So a lot of the times aren't noted on here.

3 Q Let me just take you back. Do you know why
4 Hamilton or Hubbell's telephone numbers were written
5 down in your notes?

6 A I put up here Hamilton is the family's
7 attorney. This is the information given to me by
8 Hume early on. That's why I later contacted
9 Hubbell's office about the body for making
10 arrangements.

11 Q Did Captain Hume tell you that you should
12 contact Mr. Hubbell?

13 A Yes.

14 Q About the arrangements for the body?

15 A Yes.

16 Q Did he tell you who Mr. Hubbell was?

17 A Only in general, no --

18 Q Did you know that he was a high level
19 Justice Department official?

20 A Yes, but more as a friend of the family
21 than in an official capacity, as far as I knew.

22 Q Was it your understanding that he was a

1 former law partner of Mr. Foster?

2 A I didn't know that at that point.

3 Q Going down, you have in parentheses
4 "Clinton staff."

5 A Right. Staff is what Abbott had told me.
6 I later put in "White House security."

7 Q That's when you learned he was head of
8 White House security?

9 A Right.

10 Q And then responding to the Fairfax
11 hospital, ID body, what is that?

12 A That's information that came from the
13 previous reports from the night before.

14 Q That Mr. Livingstone had gone to the
15 hospital and identified the body?

16 A Right, right.

17 Q And then, just so we have it, "come
18 downstairs."

19 A It is "came downstairs." That's what I
20 wrote "officer Bruce Abbott observed with box." The
21 "records" is just a question I had in my mind.

22 Q That's just the events you have already

1 testified with regard to this morning?

2 A Right.

3 Q Then this next entry?

4 A This phone call, I contacted Catherine
5 Gallagher at Webster Hubbell's office at 1:00 that
6 afternoon that the autopsy had been done, the body
7 can be released.

8 Q Would that phone call have been made from
9 the Old Executive Office Building?

10 A No. That phone call was made from my desk
11 at Anacostia.

12 Q On the next page of the notes, again, is
13 this your handwriting?

14 A "Nussbaum, Janet Reno, Adams." That is all
15 my writing.

16 Q Does this reflect your recollection about
17 anything that you have testified to today?

18 A Logically, it was that Nussbaum told us to
19 contact Justice. I don't recall at what point I
20 wrote down Reno and Adams. Everything after that is
21 Hume's handwriting when he was making the phone calls
22 that afternoon.

1 Q This notation to Adams, do you know who
2 Adams is?

3 A Only that he is an attorney in Justice. I
4 don't know why I wrote that down. It is later on.
5 Hume also --

6 Q This is a Hume entry, "Pat Hines"?

7 A That looks like me.

8 Q That's you as well.
9 (Witness examined the document.)

10 A It looks like my writing.

11 Q Do you know what that means?

12 A No.

13 Q Do you know who Pat Hines is?

14 A Not that I recall.

15 Q Does that entry mean anything to you?

16 A No, not right now.

17 Q What about this notation to the right of
18 the name?

19 A It doesn't -- I don't know.

20 Q Now, the next entry, that's --

21 A That's Captain Hume's writing.

22 Q Do you know what this telephone number is,

1 395-4420?

2 A That may have been the number he was
3 calling from; it seems like a White House exchange,
4 or it may be the switchboard.

5 Q That number doesn't mean anything to you,
6 though?

7 A I think it might be the White House control
8 center. I didn't write that, though.

9 Q Do you know what this entry, 4:26 p.m.,
10 refers to?

11 A It probably would have been around the time
12 that Hume had made the call, but I'm not sure.

13 Q The remainder of the page, this is in
14 Captain Hume's handwriting?

15 A Yes.

16 Q Does it refresh your recollection about any
17 of the events of that afternoon?

18 A He was making phone calls. That's all he
19 did the rest of the afternoon. This is all Hume.
20 Here, "5:00 p.m.."

21 Q Let's go slow. The top one, is that your
22 handwriting or is that Hume's handwriting?

1 A It is all Hume.

2 Q Now, this next entry with there is a block
3 around it, it says "5:00 p.m.," is that you or is
4 that Hume?

5 A Hume.

6 Q Do you know what this entry "7A" is? It
7 looks like 7A.

8 MR. IVEY: That is redacted. That is
9 Interior's notes.

10 BY MR. GIUFFRA:

11 Q Then it says "Heymann called back from
12 Justice." Does that refresh your recollection about
13 any conversation you might have been aware of?

14 A Only what it says, that he called back from
15 Justice, the previous page Hume had his name written
16 down, and was trying to contact.

17 Q And then the next entry; it says, there is
18 an arrow and it says "President's counsel's office."
19 Do you know whether Captain Hume might have gone with
20 you to the counsel's office?

21 A No. These are all made when he was over at
22 the Old Executive Office Building on the telephone.

1 This means something to him from the conversation
2 "request Heymann over here," 5.

3 Q The next entry, "arrangements with
4 counsel's office, seal off area," does that refresh
5 your recollection in any way?

6 A This was all a conversation and Hume making
7 notes. He didn't explain his notes to me. He did
8 explain -- the only thing he told me that day was
9 that the arrangements were made for the next morning
10 for us to conduct our business.

11 (Pause.)

12 Q I think my best recollection is your last
13 answer was that Captain Hume indicated to you that
14 arrangements had been made for you to return to the
15 counsel's office the next morning?

16 A Right.

17 Q Was that -- what did he tell you?

18 A That arrangements were made through Justice
19 and they would meet us -- attorneys would meet us
20 there in the morning and everything else.

21 Q Did he say anything more about what
22 arrangements had been made?

1 A Just that we would be able to search the
2 office and conduct the interviews in the morning.

3 Q Was it your understanding that you would be
4 able to look at the documents in Mr. Foster's office?

5 A It was our understanding that we would be
6 able to search the office, yes.

7 Q Without the presence of other --

8 A No. I believe that the attorneys would all
9 be there, yes.

10 Q But that you would be allowed to conduct
11 the search?

12 A Yes.

13 Q Meaning you would be allowed to review the
14 documents in Mr. Foster's office?

15 A Right.

16 Q And there would be no restrictions placed
17 on you with regard to your search of Mr. Foster's
18 office?

19 A Right.

20 Q Was this understanding that you have based
21 on any kind of an agreement that Captain Hume had
22 reached with anyone?

1 A Well, he simply told me that we would be
2 able to do the search tomorrow, in the morning and do
3 the interviews. It was outside of my experience that
4 that search would go anything like it did. So it was
5 an assumption on my part that we would be able to
6 search it when he said we would be able to search
7 it.

8 Q He did not indicate to you there would be
9 any limitations on your ability to search the office?

10 A No, no.

11 Q Do you think if there had been limitations
12 on your ability to search the office, he would have
13 discussed those limitations with you?

14 A Yes.

15 Q Do you recall anything more about the
16 conversation you had with Hume with regard to what
17 the protocol would be for searching the office?

18 A He didn't indicate that there would be any
19 restrictions on our movement in that office, if
20 that's what you mean. He only indicated that Justice
21 attorneys had worked it out with the counsel's office
22 and we would be able to come back in the morning and

1 resume what we wanted to do.

2 Q Did he indicate whether he had spoken with
3 anyone at the counsel's office?

4 A No, only Justice.

5 MR. GIUFFRA: Let's stop right here and
6 take the lunch break.

7 (Whereupon, at 12:45 p.m., the deposition
8 was recessed, to be reconvened at 1:40 p.m. this same
9 day.)

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1 AFTERNOON SESSION (1:40 p.m.)

2 Whereupon,

3 PETER W. MARKLAND

4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as follows:

6 EXAMINATION (Continued)

7 BY MR. GIUFFRA:

8 Q Sergeant Markland, let's go back on the
9 record.

10 Just to repeat what we said, what I said
11 before, the purpose of the deposition is to gather
12 information for the committee, so some of the
13 questions we may be asking will be looking for
14 detail, who you spoke to, what they said in a fairly
15 precise way. To the extent you can provide as much
16 information as possible, that would be very helpful
17 to make the deposition move along.

18 A Like I said also, I'm trying to do that,
19 but I don't want to be inaccurate, and it has been
20 quite a long time.

21 Q I understand.

22 If I could just direct your attention back

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1 to the afternoon of July 21st. Do you have a
2 recollection as to whether Captain Hume had a meeting
3 with Mr. Nussbaum at which you were not present?

4 A I don't believe so. Well, I know there was
5 that one meeting that I talked about where Captain
6 Hume came back, it was more of a brief conversation.
7 He came back and was under the impression that
8 Mr. Nussbaum was going to contact Justice that day in
9 order for us to perform the search of the office.

10 Q That would be the meeting that was at the
11 ground floor of the west wing?

12 A Right.

13 Q Are you aware of any other meetings that
14 were held in Mr. Nussbaum's office?

15 A With Captain Hume, no.

16 Q I would like to show you a document which
17 we will mark as Park Police 29. That's the Bates
18 number on the document.

19 (Park Police Exhibit 29 identified.)

20 BY MR. GIUFFRA:

21 Q If you could just take a look at this
22 document.

1 (Witness examined the document.)

2 A Okay.

3 Q What does this document appear to be?

4 A This is a report that I completed
5 concerning an interview with Mr. Nussbaum that took
6 place on the 21st. Even though it says that we all,
7 Special Agent Condon, Salter, Hume and myself
8 responded to the west wing and spoke with
9 Mr. Nussbaum, myself and Special Agent Salter are the
10 ones that went into Mr. Nussbaum's office and spoke
11 with him concerning the substance of this report.

12 Q Let me just take you through the report for
13 just a second.

14 On the top left-hand corner, it says
15 "nature of incident, death investigation."

16 A Right.

17 Q To the right of that, it says
18 "reclassification of incident" and then there is a
19 blank space.

20 A Right.

21 Q Why is that space blank?

22 A The incident was not reclassified.

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1 Q What would it mean to reclassify an
2 incident?

3 A If you have cause to believe that the title
4 of an incident should be reclassified, it is done so
5 in here and then supposedly transferred through the
6 computer, the official record that it is a
7 reclassification.

8 Q What would it mean to reclassify an
9 incident, though? Would you classify it from a
10 homicide to a suicide or would you classify it as a
11 suicide?

12 A Ultimately, on the last report, it should
13 be reclassified, but it doesn't always happen.
14 Sometimes it is just on the body of a report. An
15 example of this would be a theft we found out was a
16 robbery or a theft we found out was a burglary 1 or
17 something like that.

18 Q As long as the document says death
19 investigation and there is no reclassification, you
20 would treat it as a homicide investigation?

21 A As a death investigation. There has been
22 no conclusion reached. It is usually -- that block

1 is usually to be very specific, if you have reason to
2 believe something should be changed.

3 Q The date across the top, 21st, is that the
4 date on which you prepared this document?

5 A No, not always. I did that. There is no
6 set format for these type of supplemental reports.
7 That's just the way I was doing these reports. It
8 concerned an interview with Mr. Nussbaum on the
9 21st. I might have done this report. I can't make
10 out the date. It could be any day. It could have
11 been done five days later, actually typewritten.

12 Q Do you recall when you would have prepared
13 this report?

14 A No.

15 Q Do you recall preparing any reports on the
16 21st, after you returned to Park Police headquarters?

17 A I don't recall. Most likely I did prepare
18 this on the 21st, but I couldn't swear to it. Where
19 this is cut off on the original, there should be a
20 date filled in.

21 MR. GIUFFRA: Let's go off the record.

22 (Discussion off the record.)

1 MR. BEN-VENISTE: You are talking about the
2 date of the preparation of the report?

3 THE WITNESS: Right. At the very bottom of
4 the page, in most instances, I would have typed in my
5 name, badge number and date, and then just signed
6 above it.

7 MR. BEN-VENISTE: That looks like half of
8 your signature?

9 THE WITNESS: That is half of my
10 signature. That's mine.

11 BY MR. GIUFFRA:

12 Q Let's go through the document. Why don't
13 you read the first sentence into the record.

14 A It is titled "7/21/93, Bernard Nussbaum."
15 "After negotiations between the White House
16 counsel's office and the Department of Justice were
17 completed at approximately 1700 hours on 7/21/93, SA
18 Condon, SA Salter, Captain Hume and Detective
19 Markland responded to the west wing and spoke with
20 Mr. Nussbaum to make arrangements for interviews and
21 a search of Mr. Foster's office on 7/22/93."

22 Q Does this refresh your recollection as to

1 whether Captain Hume would have been in
2 Mr. Nussbaum's office with you on the afternoon of
3 the 21st?

4 A We went up to the counsel's suite of
5 offices. Only myself and Special Agent Salter, I
6 believe, went in and personally spoke to
7 Mr. Nussbaum.

8 Q But you believe that Special Agent Condon
9 and Captain Hume did respond to the west wing?

10 A They went up with us. We only found it
11 necessary that myself and one of the agents would go
12 in and talk to Mr. Nussbaum.

13 Q Now, the first clause, "after negotiations
14 between the White House counsel's office and the
15 Department of Justice were completed," what
16 negotiations were you referring to?

17 A The telephone conversation between Captain
18 Hume and the Department of Justice attorneys and the
19 information he obtained back from them after they
20 spoke with members of the counsel's office.

21 Q Do you recall more specifically what the
22 results of those negotiations were?

1 A No. This was all information I obtained
2 from Captain Hume, that was then telling me that we
3 would be able to conduct a search of the office the
4 next morning and conduct our interviews.

5 Q Did you receive any indication as to
6 whether those negotiations were difficult
7 negotiations?

8 A No, I didn't.

9 Q Do you recall where Captain Hume waited
10 while you spoke with Mr. Nussbaum?

11 A They were right outside the office in the
12 common area.

13 Q This would be the common area outside of
14 Mr. Nussbaum's office?

15 A Yes.

16 Q And that common area -- is that common area
17 also attached to Mr. Foster's office?

18 A Yes.

19 Q Do you recall anything about that common
20 area?

21 A Yes.

22 Q Would you describe the common area for the

1 record.

2 A Mr. Nussbaum's office is almost directly
3 across from Mr. Foster's office. There is a small
4 hallway and then there is a common area that is a
5 secretarial pool that adjoins that whole area.

6 Q Do you recall how many secretarial stations
7 were located in that area?

8 A I believe there are four desks.

9 Q Do you recall what floor of the west wing
10 Mr. Nussbaum's office was on?

11 A I believe it's the second floor.

12 Q Do you recall taking the elevator or
13 walking up the stairs?

14 A Elevator.

15 Q When you say the second floor, do you know
16 whether there is a ground floor, first floor and a
17 second floor or just a first floor and a second
18 floor? Or if you don't know, let us know as well.

19 A My recollection, it is what I'm calling the
20 ground floor, where you walk in the west lobby, and
21 the floor above it would be the second floor.

22 Q I would like to direct your attention to

1 the second paragraph. This paragraph reflects your
2 notes with regard to what Mr. Nussbaum told you when
3 you interviewed him with regard to Mr. Foster's
4 movements.

5 A Well, that information came from
6 Mr. Nussbaum. All of this information came from
7 Mr. Nussbaum.

8 Q Did you prepare -- did you have notes that
9 you took to prepare this report? Or would this have
10 been prepared based on your recollection when you got
11 back to the office?

12 A I understand what you are saying. All I
13 can tell you is -- I don't recall seeing this
14 information in my notes because I have reviewed my
15 notes several times over the last year, which leads
16 me to believe that I just prepared this that same
17 day. But normally, especially with the times, I
18 would have at least jotted down the times.

19 Q What is your normal practice with regard to
20 preparing such reports?

21 A I will try to do reports as close to the
22 interviews as I can.

1 Q Do you sometimes base the reports on notes
2 and sometimes base them on your recollection?

3 A More often than not I base them on notes.
4 It depends on the kind of interview it is. If it
5 bothers somebody for me to take notes, I won't take
6 them. I'm not saying that's the case here. I would
7 think Mr. Nussbaum wouldn't be bothered by notes at
8 all.

9 Q In preparing criminal incident records, do
10 you try to be as accurate as possible?

11 A Yes.

12 Q Do you believe that you have a good memory?

13 A Yes.

14 Q And would it be your belief that this
15 document would reflect your best recollection as to
16 what Mr. Nussbaum had told you when you interviewed
17 him --

18 MR. BEN-VENISTE: What was the question?
19 (The reporter read the record as requested.)

20 MR. GIUFFRA: On 7/21.

21 THE WITNESS: Yes, I would not write
22 anything in these reports that I wouldn't swear to.

1 BY MR. GIUFFRA:

2 Q Do Park Police officers receive training in
3 preparing reports such as this?

4 A Yes, as far as with the content and what
5 needs to be in a report, yes. But usually detectives
6 develop their own investigative style on their
7 reports.

8 Q But do you receive training on the
9 importance of maintaining -- preparing accurate
10 reports?

11 A Yes.

12 Q Is that something that is stressed in your
13 training?

14 A Yes.

15 Q Could you read this next -- the first
16 sentence of the third paragraph of the interview.

17 A "On 7/20/93, after Vincent Foster's death
18 became known to him, Mr. Nussbaum responded back to
19 the White House where he went through Mr. Foster's
20 office with Patsy Thomasson and Maggie Williams."

21 Q Let's get through that sentence. Did
22 Mr. Nussbaum tell you why he responded back to the

1 White House?

2 A Yes. He told me -- if I could read the
3 next sentence, "Mr. Nussbaum stated that they
4 conducted a brief, quick search to see if Mr. Foster
5 may have left a suicide note on his desk. He further
6 advised me that the search lasted from 2200 to 2400
7 hours." That's it.

8 Q Would it be your testimony that
9 Mr. Nussbaum said that he responded to the back to
10 the White House in order to look for a suicide note?

11 A Right.

12 Q Did he indicate to you that he responded
13 back to the White House for any other purpose?

14 A No.

15 Q Did Mr. Nussbaum tell you who Patsy
16 Thomasson was?

17 A No.

18 Q Do you know who Patsy Thomasson was?

19 A Yes. At that time, no.

20 Q Did he tell you who Maggie Williams was?

21 A No.

22 Q Now, the next sentence states "this search

1 lasted from 2200 hours to 2400 hours."

2 What does that entry indicate to you?

3 A That their brief, quick search lasted two
4 hours.

5 Q Did Mr. Nussbaum indicate to you how this
6 search was conducted?

7 A No.

8 Q He did not indicate whether they went
9 through particular files in Mr. Foster's office?

10 A No.

11 Q Do you recall asking him whether he looked
12 through particular files in Mr. Foster's office?

13 A No. He told me that he was looking for a
14 suicide note.

15 Q During this interview, did Mr. Nussbaum
16 indicate to you in any way that he had been asked to
17 seal Mr. Foster's office on the night of July 20th?

18 A No. In fact, he later told us that he
19 requested the office be posted.

20 Q The final sentence in the third paragraph
21 states -- would you read that into the record.

22 A "Mr. Nussbaum stated that no documents were

1 removed from the office."

2 Q Did you recall specifically asking
3 Mr. Nussbaum whether any documents were removed from
4 the office?

5 A I don't recall a specific question, no.

6 Q You earlier testified that you had had a
7 conversation with Officer Abbott.

8 A Right.

9 Q And that you had some concern that
10 documents might have been removed from Mr. Foster's
11 office.

12 A Right.

13 Q Was it that concern that prompted you to
14 ask Mr. Nussbaum whether documents were removed from
15 Mr. Foster's office?

16 A No. I just wanted to know what he had
17 done.

18 Q This statement, "Mr. Nussbaum stated that
19 no documents were removed from the office," does that
20 refer just to what Mr. Nussbaum --

21 A That refers to Mr. Nussbaum's knowledge.

22 Q So --

1 A It refers to the three people being in the
2 office that evening and whether or not documents were
3 removed at that time.

4 Q So, Mr. Nussbaum indicated to you or told
5 you that neither he -- let's start from the
6 beginning.

7 Mr. Nussbaum indicated to you that he did
8 not remove any documents from Mr. Foster's office on
9 the night of July 20th?

10 A I'm absolutely sure I asked him whether or
11 not he or anybody there at that time removed anything
12 from the office. I cannot recall a specific
13 question. That's what I was trying to relay in that
14 statement.

15 Q But it was your understanding that neither
16 Mr. Nussbaum, Ms. Thomasson nor Ms. Williams removed
17 any documents?

18 A According to Mr. Nussbaum, that's correct.

19 Q Let's read the second -- the fourth
20 paragraph into the record.

21 A "Mr. Nussbaum stated that he learned that
22 from about 0700 to 0715 hours, one of the secretaries

1 had entered Mr. Foster's office and piled papers on
2 his desktop to make it neat."

3 Q Did Mr. Nussbaum indicate to you the name
4 of the secretary who had entered Mr. Foster's office?

5 A He may have at that time. It is reflected
6 in another one of the reports.

7 Q Does the name Betsy Pond --

8 A Yes, that's one of the people. It may have
9 been her. I would have to see the report.

10 Q After Mr. Nussbaum told you that someone
11 had entered Mr. Foster's office and had piled papers
12 on his desk, did you indicate to Mr. Nussbaum that
13 you were concerned about possible contamination of
14 the office?

15 A Not at this time, because this was well
16 after the fact. If you read between the lines on
17 this report, the next sentence is that a cleaning
18 lady had been in there and it was never requested to
19 be secure until 10:15. I'm showing all this access
20 from all these people. He entered again at 0900,
21 9:00 a.m. in the morning, to look around. It shows
22 that there is absolutely no control over who was in

1 this office and for what reason until 10:15, when he
2 says he had it posted.

3 Q Were you troubled by the fact that the
4 office had not been secured?

5 A Yes.

6 Q The sixth paragraph indicates that trash
7 was retrieved and returned to the office.

8 A Right.

9 Q Was it your understanding from your
10 interview with Mr. Nussbaum that all trash that had
11 been in Mr. Foster's office had been returned to the
12 office?

13 A That's what he told me during this
14 interview.

15 Q Did he indicate to you that any trash had
16 not been returned to Mr. Foster's office?

17 A No.

18 Q Did he mention or say anything about --
19 strike that.

20 Do you know what a burn bag is?

21 A Yes.

22 Q What is a burn bag?

1 A It is where -- it was common practice when
2 I worked at the White House that the personnel would
3 shred any documents they had been working on, the
4 shredded paper would then be later collected and
5 destroyed.

6 Q Do you recall asking Mr. Nussbaum whether
7 there was a burn bag in Mr. Foster's office?

8 A No, I did not.

9 Q Did you take Mr. Nussbaum's response to you
10 that the trash had been returned to the office to
11 mean that any burn bag would have been returned as
12 well?

13 A That would -- in general, that would be
14 considered trash.

15 Q The next paragraph discusses the posting of
16 the office; correct?

17 A Right.

18 Q And that's at 10:15 in the morning?

19 A He stated that he requested the Secret
20 Service secure the office, and it was posted at 10:15
21 a.m.

22 Q Did you discuss with him further what

1 posting the office meant?

2 A No. I had found that out before this
3 interview. It was late in the afternoon. I found
4 that out earlier from the Secret Service.

5 Q Do you recall about how long this interview
6 was conducted?

7 A It wasn't very long. Fifteen minutes to
8 half an hour at the most.

9 Q During this interview, it would be your
10 best recollection that Captain Hume would have been
11 sitting in the outer office of Mr. Nussbaum's suite?

12 A Well, they were outside -- I believe the
13 door was even closed. It was just the -- there may
14 have been a member of the White House counsel's
15 office there also, but only myself and the agent were
16 in there talking to Mr. Nussbaum.

17 Q Do you recall whether the agent was also
18 taking notes?

19 A I don't recall.

20 Q In reviewing this report, what would be
21 your best estimate of the time of the interview of
22 Mr. Nussbaum?

1 MR. BEN-VENISTE: Reviewing the report or
2 his recollection?

3 (Witness examined the document.)

4 MR. BEN-VENISTE: Bob, I didn't quite get
5 the question.

6 MR. GIUFFRA: The question was in reviewing
7 the report.

8 THE WITNESS: The way I wrote this, and it
9 is not extremely clear, but we were at the west wing
10 at 1700 hours. It was 5:00 p.m. when we went up. So
11 it would have been shortly after 5:00 p.m.

12 BY MR. GIUFFRA:

13 Q Is that consistent with your recollection?

14 A After reviewing that report, yes.

15 Q The statement in the report about the trash
16 being retrieved and returned to the office, was it
17 your understanding that the trash had been returned
18 to Foster's office prior to your interview with
19 Mr. Nussbaum?

20 A Yes, prior to this interview.

21 Q Do you have any recollection of what
22 Captain Hume was doing during the time that you were

1 interviewing Mr. Nussbaum?

2 A I thought they were just waiting outside in
3 the hall. I have no idea.

4 Q Do you know if he spoke to anyone?

5 A No. If he did, he did not relay anything
6 to me that evening.

7 Q Do you recall Mr. Nussbaum mentioning that
8 a lock had been installed on Mr. Foster's office
9 door?

10 A No.

11 Q Let me just direct your attention to Park
12 Police 121 again. This is your note pad; am I
13 correct?

14 A Right.

15 Q The handwriting at the top of the page of
16 the document, is that your handwriting?

17 A Yes.

18 Q And might this be some of the notes that
19 you would have used to prepare the document we have
20 identified previously as Park Police 29?

21 A Yes.

22 Q So, for example, at the top of --

1 A It makes reference to the times in the
2 second paragraph.

3 Q And they appear to be the same?

4 A Yes.

5 Q The same page, 121 Park Police. Is this
6 your handwriting?

7 A Mine.

8 Q That's your handwriting. What does this --
9 this would be the part of the document that has a box
10 around it or partially a box around it. What does
11 this refer to, this discussion?

12 MR. BEN-VENISTE: What discussion? I see
13 some notes.

14 MR. GIUFFRA: Fine.

15 BY MR. GIUFFRA:

16 Q What do these notes refer to?

17 MR. BEN-VENISTE: What are you referring
18 to?

19 THE WITNESS: Starting with "Betsy Pond"?

20 MR. GIUFFRA: Yes.

21 MR. BEN-VENISTE: Thank you.

22 THE WITNESS: I had written down the names

1 Betsy Pond, Deborah Gorham and I believe the
2 interview at 8:30 was when we expected to interview
3 them the next morning.

4 BY MR. GIUFFRA:

5 Q Do you recall whether Mr. Nussbaum told you
6 that Betsy Pond and Deborah Gorham would be available
7 for an interview at 8:30 in the morning?

8 A I'm not sure. I think Captain Hume gave me
9 that information.

10 Q Do you know whether Captain Hume, perhaps
11 while you were with Mr. Nussbaum, might have been
12 speaking to any of these people, Betsy Pond, Deborah
13 Gorham?

14 A He may have been. He was adjacent to their
15 area. I don't know who or if he was speaking to
16 anybody. I'm 90 percent sure that he and not
17 Mr. Nussbaum gave me that information. But that's
18 what that referred to, we expected to interview them
19 at 8:30 the next morning.

20 Q Did you have any discussion during the
21 course of the interview with Mr. Nussbaum about
22 making arrangements for interviewing any White House

1 officials?

2 A No.

3 Q This next notation, why don't you read that
4 for the record.

5 A It is not very good English. "Livingstone
6 said he was not in office today." I wrote that down
7 after I asked him those specific questions when I ran
8 into him in the lobby.

9 Q Do you now recall whether you spoke to
10 Mr. Livingstone before or after the interview with
11 Mr. Nussbaum?

12 A I don't think this notation is
13 chronological. If you turn to the next page marked
14 122 on the bottom, that has the rest of the
15 information which is contained in that report
16 concerning an interview with Mr. Nussbaum.

17 Q So, do you sometimes in preparing --

18 A I believe what happened in this case is
19 when I saw, or Mr. Livingstone was pointed out to me
20 in the lobby, I just flipped up to where I had a
21 space on the pad after I talked to him to jot it down
22 quickly, which sometimes happens, because more than

1 likely this information was here, I started writing
2 down notes from the interview with Mr. Nussbaum and
3 picked them up again here on this page.

4 Q Across the top on page 122, it says "Cliff
5 Sloan." Is that correct?

6 A Phone numbers for Cliff Sloan, yes.

7 Q Do you recall speaking with Cliff Sloan on
8 the 21st?

9 A I don't.

10 Q Again, is this your handwriting?

11 A Yes.

12 Q It might be helpful as we go through this
13 document, if there are places where the handwriting
14 is not your own --

15 A I believe the only sections through this
16 whole pad were the ones with the phone numbers
17 written down by Captain Hume that one afternoon.

18 Q And that is on page 118 at the top?

19 A No.

20 Q I'm sorry. 119.

21 A Starting at 119, 120 -- 119 and 120 are the
22 only entries by Captain Hume I see.

1 Q At the top of page 122, beneath the
2 notation "Cliff Sloan" with the telephone numbers,
3 there is a notation. Could you just read that for
4 the record.

5 A It says "says room sealed at 10:15."
6 However, I believe that is as a result of my
7 interview with Mr. Nussbaum.

8 Q You just needed a little extra room on the
9 pad and you scribbled it out there?

10 A Yes.

11 Q That is also referred to in your incident
12 report?

13 A I believe that refers to the last
14 sentence.

15 Q Then immediately below the notation 10:15,
16 could you just read that into the record.

17 A "Mr. Nussbaum entered 2200 to 2400
18 7/20/93."

19 Q And you believe that refers to the
20 statement contained in your report with regard to the
21 length of the time that Mr. Nussbaum was in
22 Mr. Foster's office?

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1 A Yes.

2 Q And does this indicate to you that
3 Mr. Nussbaum told you that he was in the office from
4 2200 to 2400 hours?

5 A Yes.

6 Q The next name below that?

7 A He gave me the names of the two people that
8 were in the office with him, Patsy Thomasson, Maggie
9 Williams. I later filled in the entries I have in
10 parentheses. Under Patsy Thomasson I put in parens
11 "works for Watkins?" Under Maggie Williams "Hillary
12 Clinton, chief of staff."

13 Q Did there come a time that the name David
14 Watkins became relevant or came to your attention in
15 the course of this investigation?

16 A Yes.

17 Q Do you recall when that was?

18 A No, I don't.

19 Q Do you recall the context in which
20 Mr. Watkins became relevant to your investigation?

21 A I would have to review.

22 MR. BEN-VENISTE: Mr. Giuffra is pointing

1 on the document. He is standing next to Detective
2 Markland at this point. The record doesn't show what
3 you are pointing to, Mr. Giuffra.

4 MR. GIUFFRA: We will come to it,
5 Mr. Ben-Veniste.

6 MR. BEN-VENISTE: You asked him a question,
7 you remember when Mr. Watkins became relevant, and
8 you pointed to a document. Could we say on the
9 record what it is you are pointing to, or if you
10 don't mind, then take your seat, one or the other.

11 BY MR. GIUFFRA:

12 Q Not to waste time with jousting, but I
13 think the record will reflect that I asked the
14 sergeant to read into the record "works for Watkins"
15 which was noted on the pad. But we can do that.

16 In the middle of the page 122, it says
17 "Patsy Thomasson"; am I correct?

18 A Yes.

19 Q Immediately below that could you read what
20 it says?

21 A I wrote in parentheses "works for Watkins"
22 with a question mark.

1 Q Does that appear approximately in the
2 middle of the page of the document?

3 A Yes.

4 Q Then immediately below "works for Watkins,"
5 what does it say on the page of the document?

6 A "Maggie Williams."

7 Q Immediately below Maggie Williams what does
8 it say?

9 A I wrote in parentheses "Hillary Clinton,
10 chief of staff."

11 Q And then immediately below "Hillary Clinton
12 chief of staff," could you read the next notation on
13 page 122.

14 A "All three looked for possible note."
15 Right after that I wrote "no documents removed."

16 Q And that's six lines up from the bottom of
17 the page?

18 A Yes.

19 Q And this notation then gets reflected in
20 your criminal incident record; am I correct?

21 A Yes, it does.

22 Q Immediately below "no documents removed,"

1 there is a notation. Could you read that notation.

2 A "7/21/93, 7 to 7:15, secretaries piled
3 papers (Ms. Pond)."

4 Q And that same information appears in your
5 incident record?

6 A Yes, it does.

7 Q The notation to Ms. Pond, that appears
8 where on the page?

9 A On the note?

10 Q Yes.

11 A The fifth line up. But her name does not
12 appear in my report.

13 Q Do you think you learned Ms. Pond's name
14 during the course of the interview with Mr. Nussbaum
15 or at a later point in time?

16 A At a later time.

17 Q So, you added in Ms. Pond's name?

18 A Yes.

19 Q So your practice would be, in preparing
20 notes in connection with an investigation, to add
21 information as you learned it to the relevant part of
22 your notes?

1 A Oftentimes I do that.

2 Q Immediately below "piled paper" -- let's
3 stop.

4 (Pause.)

5 Immediately below "piled paper," there is a
6 notation written on page 122. Could you read that
7 for the record.

8 A It says "9:00 a.m. Mr. Nussbaum looked
9 again."

10 Q And is that information reflected in your
11 criminal incident report?

12 A Yes, it is.

13 Q How is it reflected in your criminal
14 incident report?

15 A The sentence "at approximately 0900 hours
16 Mr. Nussbaum again entered the office to look
17 around."

18 Q Just so the record is clear, you would have
19 been taking these notes down as Mr. Nussbaum was
20 imparting the information to you during the
21 interview?

22 A Yes.

- 1 Q If you could read the next line on page
2 122.
3 A The last line states "cleaning lady took
4 paper basket and it was retrieved."
5 Q And that appears at the very bottom of the
6 page?
7 A Yes.
8 Q Is that information reflected in your
9 criminal incident record?
10 A Yes, it is.
11 Q And the notation at -- the last notation at
12 the very bottom of page 122, "it was retrieved."
13 A Right.
14 Q Is your understanding that the trash was
15 returned to Mr. Foster's office?
16 A Yes. That's what he told me.
17 Q Let's just turn to the next page of this
18 exhibit, Park Police 123. At the very top, what is
19 the reference?
20 A The names Neuwirth, SA Scott Salter and
21 myself.
22 Q Do you know whether that notation which

- 1 appears at the very top of 123, whether that was
2 written on the 21st or the 22nd?
3 A It was written on the 22nd.
4 Q So, this page would have reflected
5 activities that occurred on the 22nd?
6 A Right.
7 Q If I could direct your attention back to
8 page 121 of your notes. The notation which appears
9 at lines -- it appears to be lines 5 and 6 from the
10 bottom, "Livingstone says he was not in office
11 today."
12 A Right.
13 Q What does that refer to, that notation?
14 A I wrote that, jotted that down after I
15 confronted Livingstone in the lobby of the west
16 wing.
17 Q Had Mr. Livingstone said anything to you
18 which caused you to make that notation in your notes?
19 A It's when I had specifically asked him if
20 he had been in Foster's office and had carried
21 anything from Foster's office, that he had been seen
22 carrying a box from the second floor.

1 Q What did Mr. Livingstone say to you?

2 MR. BEN-VENISTE: Again? This will be the
3 third time you have gone over it.

4 BY MR. GIUFFRA:

5 Q What did Mr. Livingstone say to you?

6 A He said he had not been in Foster's office
7 and had not gotten the box from Foster's office.

8 Q So, this notation refers to Mr. Foster's
9 office, not Mr. Livingstone's office?

10 A Correct, that's right.

11 Q So, one possible reading of this is that
12 Mr. Livingstone had indicated to you that he was not
13 even at the White House at all. He says he was "not
14 in office today," meaning he was not in Foster's
15 office?

16 A That's what it refers to.

17 Q When you were conducting -- when you were
18 at the White House on July 21st, what sort of a
19 uniform would you have been wearing? Would you have
20 been plain clothes or uniform?

21 A Suit, plain clothes.

22 Q Prior to speaking to Mr. Livingstone, did

1 you make him aware of the fact that you were a police
2 officer?

3 A Yes.

4 Q Is that standard practice?

5 A Yes.

6 Q And Mr. Nussbaum was aware that you were a
7 police officer?

8 A Yes.

9 Q And so I don't have to do this through the
10 rest of these people you spoke with, prior to
11 receiving information from various witnesses, you
12 made them aware of the fact that you were a police
13 officer?

14 A Yes. As a matter of fact, the way those
15 interviews went, there was either myself or Captain
16 Hume, an FBI agent, Secret Service agent and a member
17 of the chief counsel's office in the room.

18 Q At any time on July 21st -- strike that.

19 When you arrived at the White House on July
20 21st, it was your understanding you were going to
21 search Mr. Foster's office?

22 A Yes.

1 Q When you were advised that you would not be
2 allowed to search Mr. Foster's office, did you make
3 an objection to anyone at the White House?

4 A Anyone?

5 Q Did you object to the fact that you were
6 not being allowed --

7 A To make a formal objection with the chief
8 counsel's office?

9 Q Did you advise anyone that you wanted to
10 get into the office and you had an objection to the
11 fact that you were not allowed to go into the office?

12 A A member of the chief counsel's office?
13 Anyone?

14 Q Anyone there.

15 A Anyone I was around knew I was mad about
16 not being able to get in the office.

17 Q Did you advise Mr. Nussbaum that you were
18 angry that you were not allowed to get into the
19 office?

20 A No. I just accepted it as a fact that we
21 had to contact Justice and go through them and make
22 arrangements.

1 Q During the course of the interview that you
2 had with Mr. Nussbaum, you did not ask to be allowed
3 to search Mr. Foster's office that day, the 21st?

4 A Yes. We told them that we were there to
5 search the office and wanted to interview people.

6 Q When he said that you could not do that,
7 did you raise an objection with him?

8 A No. When we were first informed, it was
9 through Captain Hume. I wasn't there at that instant
10 conversation. I was told by Captain Hume that he was
11 going -- that Mr. Nussbaum was originally going to
12 contact Justice, and then we were waiting to get in
13 again. And that's when Mr. Nussbaum came down and
14 said what are you still doing here, and then made it
15 clear that we were supposed to contact Justice, which
16 prompted us to go to the Old Executive Office
17 Building, and Captain Hume made those phone calls.

18 Q During that conversation with Mr. Nussbaum
19 on the ground floor of the west wing, did you or
20 Captain Hume indicate to Mr. Nussbaum that you wanted
21 to search the office?

22 A He said "what are you still doing here,"

1 and we said we are waiting to go look in the office.

2 Q Did you indicate to Mr. Nussbaum in any way
3 that your investigation was being impeded by the fact
4 you were not being allowed to go into Mr. Foster's
5 office?

6 A No. And by that time, the way I felt was
7 that we weren't going to see anything that we weren't
8 going to be allowed to see. They had all been
9 through the office at will up until that point.
10 There was nothing critical left to object about
11 anything, in my mind.

12 Q So, in your view, the office had -- the
13 scene had not been sealed and therefore there was no
14 point in raising an objection?

15 A By then I felt we were just going through
16 the motions.

17 Q Because the scene had been contaminated at
18 that point?

19 A Sure.

20 Q When you used the expression, "just going
21 through the motions," what do you mean by that?

22 A That we would conduct a search, but I

1 really didn't have too much hope to discover
2 anything. At that point, three people had been
3 through and then at another point, Mr. Nussbaum had
4 come back and looked through it again. He didn't
5 report anything significant in the office. I didn't
6 expect to find anything at that point.

7 But would I have searched it anyway to have
8 done it? Yes.

9 Q Do you believe that your investigation was
10 compromised by virtue of the fact that Mr. Foster's
11 office was not sealed on the night of his death?

12 A I honestly don't know.

13 Q Why don't you know?

14 A Because I don't know if there was anything
15 taken that we would have discovered. I don't know if
16 the note that was ultimately turned over to us,
17 having been ripped up and found in a briefcase later
18 on, was originally there. I honestly don't know.
19 There is no way of knowing.

20 Q Do you believe the fact that the office was
21 not sealed had a negative impact on your
22 investigation?

1 A Yes.

2 Q Again, why was that?

3 A We had absolutely no control over the
4 physical security of the office itself and anything
5 at the White House, we had no control over. It was
6 all controlled by the chief counsel's office.

7 Q Was the fact that the Park Police did not
8 have control over the office contrary to normal
9 police procedures?

10 A Yes, yes. If it had been anywhere but the
11 White House or a government office, if it was a
12 regular business, we would go ahead and seal an
13 office and argue about it later and keep control over
14 it until we got done arguing about it. But, of
15 course you can't do that kind of thing at the White
16 House. The secret service is in command.

17 Q What was Mr. Nussbaum's demeanor toward
18 yourself and Captain Hume?

19 MR. BEN-VENISTE: You mean other than as he
20 has testified earlier?

21 BY MR. GIUFFRA:

22 Q What was your general impression of how he

1 viewed yourself and Captain Hume?

2 A He was very condescending, I thought. He
3 made it very clear he was calling the shots and it
4 didn't matter what we wanted.

5 Q Was his manner heavy-handed?

6 A I'm not sure what you mean by
7 "heavy-handed."

8 Q Strike the question.

9 What do you mean by "condescending"?

10 A He made it clear that whatever was going to
11 happen there, concerning interviews, searches,
12 anything else, was totally up to him and nobody
13 else.

14 Q Did he indicate to you whether he was
15 acting at the direction of anyone?

16 A Do you mean that someone was telling him
17 what to do or that he was not on behalf of but at the
18 direction of?

19 Q At the direction of.

20 A No, I didn't get that impression.

21 Q Do you recall anything more about the first
22 day of the investigation other than what we have gone

1 into so far?

2 A No.

3 Q Let's turn to the next day. Did you meet
4 Captain Hume at your station in Anacostia?

5 A Yes.

6 Q Did you discuss with Captain Hume the
7 events of the prior day?

8 A I'm sure there was some discussion, but
9 there really wasn't much to discuss at that point
10 that we hadn't discussed the prior evening.

11 Q What did you discuss with Captain Hume the
12 prior evening?

13 A Just that the interviews were set up and a
14 search of the office was set up and we knew that
15 there would be -- the attorneys for Justice and
16 representatives from counsel's office present for the
17 search. We weren't prepared for how the search
18 actually went, though, that morning.

19 Q Did either yourself or Captain Hume speak
20 to anyone at the Park Police about the events that
21 occurred on July 21st at the White House?

22 A I'm sure I did, as far as the other

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1 detectives, just letting them know my general
2 feelings about the whole thing, and everyone was
3 interested.

4 Q Do you recall what you told those
5 detectives?

6 A No. I know I was mad and disgusted.
7 Exactly what I told them I don't know.

8 Q Did either yourself or Captain Hume speak
9 to Chief Langston?

10 A I didn't.

11 Q Do you know whether Captain Hume did?

12 A I don't know.

13 Q Do you recall discussing the incident
14 involving Craig Livingstone and the box with anyone
15 at the Park Police?

16 A Besides Captain Hume, I don't believe so.
17 It never panned out to any significance as far as the
18 investigation went.

19 Q Now, you and Captain Hume then left
20 Anacostia and went to the White House?

21 A Right.

22 Q About what time did you arrive at the White

1 House?

2 A I'm not sure. I think this is one of those
3 things I was trying to pin down, looking through the
4 notes.

5 Q Would it help if --

6 A It is possible.

7 MR. IVEY: What page are you on there,
8 Bob?

9 MR. GIUFFRA: Let the record reflect I have
10 handed Sergeant Markland his notes. He is now
11 looking at the page marked 123. He is now looking at
12 the page marked 124.

13 (Witness examined the document.)

14 THE WITNESS: I don't have the time filled
15 in on page 123. The first time I show filled in was
16 on page 125, which was an interview with Tom
17 Castleton. That shows 1000 hours or 10:00 a.m. So I
18 would say on or around 9:00 a.m. we started the
19 interviews.

20 BY MR. GIUFFRA:

21 Q You would have arrived at the west wing on
22 the ground floor, and what happened when you arrived

1 at the west wing? Were you taken to Mr. Nussbaum's
2 office, to a conference room?

3 A What we did was used two conference rooms,
4 which is off the counsel's office on the second
5 floor. We split up into teams to interview the
6 people we need to interview.

7 Q By the term "split up into teams," does
8 that mean that you and some of the FBI officers would
9 interview --

10 A For instance, on page 123 at the top, I
11 have Neuwirth, SA Scott Salter, PWM, that's myself.
12 We interviewed Deborah Gorham, while Captain Hume,
13 another agent, another member of counsel's office was
14 there for the second interview.

15 Also present in these rooms were Secret
16 Service agents. I wasn't pleased that we had what I
17 refer to as a gang interview on these people either.

18 Q Was that unusual? Why were you --

19 A It was unusual. I would rather have had
20 these people come to our office and interview them,
21 two detectives on one person, or even one on one if
22 you had to.

1 Q Why is that?

2 A Because nobody is going to open up or tell
3 us anything. You cannot get intimate with somebody
4 with all these people from different agencies in
5 there and their employer is sitting in the room.

6 Q The interview with Ms. Gorham, do you
7 remember where that was conducted?

8 A It was in one of the rooms there in the
9 west wing.

10 Q You don't remember what floor it was on?

11 A It was on the same floor as the counsel's
12 office.

13 Q But it was not in the counsel suite?

14 A Well --

15 Q Was it in Mr. Nussbaum's office?

16 A No, it was not in Nussbaum's. I thought it
17 was further down off to the right. It was a long
18 table and a couch in the room. It was obviously used
19 as a meeting room.

20 Q Now, what was the purpose of these
21 interviews?

22 A Just to extract any information we could

1 from the people that worked or saw Mr. Foster on a
2 daily basis, anything they could tell us about his
3 schedule, anything unusual, anything -- any
4 information they could over the last days of his
5 life.

6 Q And your objective being to determine the
7 cause of death?

8 A Or anything we could go on to set us in the
9 right direction towards that end, yes.

10 Q Let's look at your notes with regard to the
11 interview with Deborah Gorham. This is page 123.
12 First of all, across the top you have "Neuwirth." I
13 think you previously testified he worked for
14 Mr. Nussbaum.

15 A Yes.

16 Q Were you surprised that he was present?

17 A By now, nothing really surprised me. I
18 wasn't happy with this arrangement, but that's the
19 way it was.

20 Q Did you object to his presence?

21 A No, because this was already all set up by
22 Justice attorneys along -- through the chief

1 counsel's office.

2 Q Did Mr. Neuwirth advise you as to why he
3 was present during these interviews?

4 A No.

5 Q Did you have an impression as to why he was
6 present at these interviews?

7 A Yes.

8 Q What was the impression that you had?

9 A To keep Mr. Nussbaum informed as to what
10 employees were saying and that's it.

11 Q Do you believe that Mr. Neuwirth's presence
12 had any sort of an intimidation effect on the
13 witnesses?

14 A Yes. Everyone I interviewed on this day up
15 there I felt had already been talked to by
16 Mr. Nussbaum or his staff and knew exactly what they
17 were going to say, nothing more, nothing less. And
18 that was it. They all came off very rehearsed.
19 That's just my impression. It is nothing I can
20 prove.

21 Q Was Mr. Neuwirth taking notes?

22 A I believe he was. I'm not positive.

1 Q At any point during the course of these
2 interviews -- was Mr. Neuwirth, in terms of splitting
3 up into teams, did he attend all the interviews that
4 you conducted that day?

5 A I believe so.

6 Q Did someone else attend the interviews that
7 Captain Hume conducted?

8 A Yes.

9 Q Do you know who that was?

10 A I'm not sure.

11 Q Do you recall if the person's name was
12 Clifford Sloan?

13 A It is possible. It is likely but I'm not
14 positive.

15 Q About how long were each of these
16 interviews?

17 A Well, I started this one at around 9:00.
18 Close to an hour. Tom Castleton wasn't very long at
19 all. He didn't have much to say. The next one was
20 at 1150. It just depended on what the people had to
21 say.

22 Q During the course of these interviews, did

1 Mr. Neuwirth ever advise a witness how to answer a
2 question?

3 A No.

4 Q Did Mr. Neuwirth ever object to a question?

5 A No.

6 Q Do you recall Mr. Neuwirth saying anything
7 during the course of these interviews?

8 A I don't recall.

9 Q Did Mr. Neuwirth remain for the entire
10 interview?

11 A As best as I can recall, yes.

12 Q Did there ever come a time at which
13 Mr. Neuwirth and any witness left during an interview
14 and then returned?

15 A Well, there came a time when he returned
16 with one of the interviewees.

17 Q A new interview?

18 A Not a new interview, but additional
19 information that she just happened to remember.

20 Q Let me direct your attention to a document
21 which we will mark as Park Police 32-33.

22 (Park Police Exhibit 32-33 identified.)

1 BY MR. GIUFFRA:

2 Q If you could just review that document.

3 (Witness examined the document.)

4 Have you reviewed the document?

5 A Right.

6 Q What is this document?

7 A This is a report that I prepared concerning
8 an interview with Deborah Gorham on the 21st. I have
9 that wrong. The 22nd, the interview was the 22nd.

10 Q This would have been in connection with
11 this death investigation that was ongoing?

12 A Right.

13 Q And the time of the interview appears to
14 be?

15 A 0900.

16 Q Until?

17 A 0930 hours.

18 Q Do you believe that this incident record
19 accurately reflects what Ms. Gorham told you during
20 the course of that interview?

21 A Yes, I do.

22 Q Do you recall when you prepared this

1 record?

2 A Again, the date's cut off where I signed
3 the bottom, but most likely it was that afternoon or
4 evening.

5 Q I just want to direct your attention to the
6 last paragraph on page 32. If you could just read
7 the first two sentences for the record.

8 A "The interview was about to be terminated
9 when Mr. Neuwirth asked us to remain and took
10 Ms. Gorham out of the room to speak for her. A very
11 short time later they returned and Ms. Gorham stated
12 that there was one thing she thought may be important
13 that she recalled."

14 Q And --

15 A Should I continue?

16 Q Yes.

17 A "On Thursday, July 15, 1993, Mrs. Foster
18 had called her and asked for Mr. Foster's pay
19 schedule, explaining that she believed their checking
20 account was overdrawn. The credit union was
21 contacted and they stated they would work with
22 Mrs. Foster on a weekly instead of a biweekly basis.

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1 After that conversation, Ms. Gorham was authorized by
2 Mr. Foster to pick up his statement every Friday from
3 Mrs. Foster. Ms. Gorham did not see this as a real
4 problem or place any significance on it."

5 Q In terms of obtaining this information from
6 Ms. Gorham, Mr. Neuwirth during the course of the
7 interview asked to stop the interview?

8 A Actually, the interview was about to be
9 concluded, and he took Ms. Gorham out of the room and
10 asked us to remain, and then brought her back in with
11 this information.

12 Q Did that appear to be unusual to you in
13 terms of the conduct of such an interview?

14 A As I said, the whole interview seemed very
15 structured. I believe it had all been gone over.
16 The whole tone of this interview was something that
17 just felt to me, from my experience, had already been
18 discussed and they were going to give so much
19 information and that was it.

20 Q Was it your impression that Ms. Gorham had
21 discussed the subjects that she was going to discuss
22 with you during the interview with Mr. Neuwirth?

1 A She had obviously discussed this credit
2 union business and the conversation with Mrs. Foster
3 with Mr. Neuwirth previously.

4 Q Then on the next page, page 33, there is
5 another discussion. Does this refresh your
6 recollection as to other events that happened?

7 A This was --

8 Q Why don't you read this paragraph.

9 A "At approximately 1450 hours," or 2:50
10 p.m., "immediately after the inventory of
11 Mr. Foster's office by White House counsel,
12 referenced report under this case file number by
13 Captain Hume, Detective Markland and Special Agent
14 Salter were asked to remain and were ushered into
15 Mr. Nussbaum's office by Mr. Neuwirth. Ms. Gorham
16 was brought in and she stated that she just
17 remembered some conversations that she thought were
18 important to our investigation. Within the last two
19 weeks, Ms. Gorham had received calls from
20 Mr. Foster's eldest son and Mrs. Foster inquiring
21 about Vincent Foster's mood. They specifically asked
22 how he was doing, not how the work was going and

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1 seemed genuinely concerned."

2 Q Does this accurately reflect your
3 recollection as to what happened?

4 A Yes. She was relating to me that they were
5 concerned for Mr. Foster's mood and his state of
6 mind, that was the thrust of their inquiries into how
7 he was doing.

8 Q Did Mr. Neuwirth -- strike that question.

9 Was Mr. Nussbaum present during this second
10 part of the interview?

11 A I believe so.

12 Q When Mr. Neuwirth asked you to remain and
13 you were ushered into Mr. Nussbaum's office, did
14 Mr. Neuwirth say anything to you about why he had
15 asked you to remain?

16 A No, because we had just come out of
17 Mr. Foster's office. There is a very small area
18 between the two offices and the common area. He kind
19 of asked us to step inside and then went and got
20 Ms. Gorham and came back with her.

21 Q Did they say anything to Ms. Gorham that
22 you could overhear? Did either Mr. Nussbaum or

1 Mr. Neuwirth say anything to Ms. Gorham?

2 A Not at that point. He brought her in and
3 then started talking with -- Mr. Neuwirth was in and
4 out of Mr. Foster's office the entire time that they
5 were conducting the search of Mr. Foster's office.
6 So when he might have talked to her, I don't know.
7 It could have been any time.

8 Q During the course of this day, the 22nd,
9 did Mr. Neuwirth seem calm? Was his demeanor calm or
10 did he seem upset?

11 A He seemed calm.

12 Q Professional?

13 A Yes.

14 Q Did Mr. Nussbaum seem calm and
15 professional?

16 A Yes. You mean during the interview? The
17 search of the office?

18 Q Just generally. What was your general
19 impression of Mr. Nussbaum's demeanor on this
20 particular day?

21 A Same as the prior day. During one of the
22 interviews he burst into the room saying how is

1 everything going. He knew we were conducting
2 interviews. I didn't think that was very
3 professional, but other than that, they were in
4 control during the search of the office. Every time
5 a document would be picked up by Mr. Nussbaum, White
6 House counsel would be over his shoulder whispering
7 in his ear.

8 Q Let's just go a little slowly.

9 MR. BEN-VENISTE: I don't want you to cut
10 off Sergeant Markland. Did you have anything more to
11 add about Mr. Nussbaum's demeanor?

12 THE WITNESS: I was just trying to reflect
13 his demeanor, that he was in control of the
14 situation, that we had no input into how things were
15 going at that point.

16 BY MR. GIUFFRA:

17 Q Was he still acting in a condescending
18 manner toward yourself and Captain Hume?

19 A He wasn't really dealing directly with us
20 at all. He would talk to the Justice attorneys
21 during the search.

22 Q Was Mr. Neuwirth acting in a condescending

1 manner toward yourself and Captain Hume?

2 A I wouldn't say so.

3 Q Let me direct your attention to page 125.

4 MR. BEN-VENISTE: Would this be a good
5 place to take a break?

6 MR. GIUFFRA: We can if you want. That's
7 fine.

8 (Recess.)

9 BY MR. GIUFFRA:

10 Q Sergeant Markland, now, directing your
11 attention to page 125, across the top of the page it
12 says "Tom Castleton, 1000 hours."

13 A Correct.

14 Q That indicates you interviewed
15 Mr. Castleton.

16 A Correct.

17 Q Let me show you a document which we will
18 have marked as Park Police 34.

19 (Park Police Exhibit 34 identified.)

20 BY MR. GIUFFRA:

21 Q What does this document appear to be?

22 A I titled it "office personnel interviews."

1 I listed Tom Castleton as being interviewed at 1000
2 hours. He is the staff assistant.

3 MR. BEN-VENISTE: Off the record.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q This document, page 34, is not signed. Do
7 you know why it is not signed?

8 A I would say the original was most likely
9 signed.

10 Q And your interview -- does this accurately
11 reflect, to the best of your belief, your interview
12 with Mr. Castleton, this record?

13 A Yes, it does.

14 Q During the course of your interview with
15 Mr. Castleton, did you ask him whether he had been
16 involved in any movement of boxes from Mr. Foster's
17 office?

18 A No.

19 Q Did you ask -- other than Mr. Nussbaum, do
20 you recall asking any of the witnesses about whether
21 persons had entered Mr. Foster's office after his
22 death?

1 A I believe they were all asked that during
2 the interview.

3 MR. BEN-VENISTE: Can I have the question
4 read back.

5 (The reporter read the record as requested.)

6 BY MR. GIUFFRA:

7 Q So this was the standard part of your --

8 A I would ask them what their involvement
9 was, because I knew that -- I believe Ms. Pond at
10 least had been in the office.

11 Q Did Mr. Castleton indicate to you that he
12 had been in Mr. Foster's office?

13 A No.

14 Q Did Ms. Gorham indicate to you that she had
15 been in Mr. Foster's office?

16 A No, I don't believe so.

17 Q Do you recall whether she affirmatively
18 said that she had not been in Mr. Foster's office?
19 If you don't recall, you can say so.

20 A I don't recall.

21 Q The next person you spoke with, at least
22 according to your incident record, page 34, was whom?

1 A Linda Tripp, who was also a part of that --
2 I want to say secretarial pool for the counsel's
3 office. It listed her as an executive assistant.

4 Q And to the best of your recollection,
5 Ms. Tripp had not entered Mr. Foster's office
6 following his death?

7 A That's correct.

8 Q And that's the kind of information that you
9 would have noted in either your note pad or in the
10 incident record?

11 A Yes.

12 Q Now, during the period that you were
13 interviewing Mr. Castleton and Ms. Tripp and Deborah
14 Gorham, I believe you testified that Captain Hume was
15 interviewing other persons?

16 A Yes.

17 Q Do you know who Captain Hume interviewed?
18 Did you discuss who he had interviewed?

19 A I believe he interviewed Ms. Pond.

20 Q Who was Ms. Pond?

21 A I believe she was the secretary for
22 Mr. Foster. I have it listed in one of these

1 documents.

2 Q Did Captain Hume and yourself make a
3 practice of discussing these interviews with each
4 other, the interviews you hadn't attended?

5 A Yes. We would review each other's reports
6 also.

7 Q In the evening?

8 A Yes, at a later time, sure.

9 Q Now, you mentioned before that, during the
10 course of one of these interviews, Mr. Nussbaum had
11 burst into the room. Did Mr. Nussbaum burst into the
12 room while you were present? Was this during one of
13 your interviews or was this during one of Captain
14 Hume's interviews, as best you recall?

15 A I believe it was when I was interviewing
16 Ms. Gorham.

17 Q Are you sure?

18 A I'm not absolutely positive, though.

19 Q Let me show you a document, Park Police 30
20 and 31. This is marked across the top "supplemental
21 criminal incident record." Why don't you take a
22 second and just review that document.

1 (Witness examined the document.)

2 A I remember Captain Hume telling me about
3 this during his interview with Ms. Pond. I may or
4 may not be mistaken about the interview of
5 Ms. Gorham.

6 Q It is possible Mr. Nussbaum may have also
7 burst into your interview as well?

8 A Yes, but I'm not certain at this point.

9 Q Were these incident records prepared on a
10 computer or a typewriter?

11 A Probably typewriters. I don't even think
12 we had many computers in the office at that time that
13 worked.

14 Q I would like to now discuss with you the
15 review of the documents in Mr. Foster's office. Just
16 as sort of a first question, in reviewing the
17 documents that we have received from the Park Police,
18 it doesn't appear that your notes discuss this
19 review; am I correct in that? Or are there other
20 notes perhaps that we haven't --

21 A The search of the office?

22 Q Yes.

1 A I believe that Captain Hume might have just
2 taken who was there and then prepared a report
3 afterwards. There wasn't much to note.

4 Q Let me ask a question. Is it possible that
5 handwritten notes like those contained in document
6 118 to 129 might not have been preserved for some
7 reason?

8 A No. All of my notes were. I can swear to
9 that.

10 Q Let me show you another document which will
11 be marked as 36 and 37.

12 (Park Police Exhibit 36 and 37
13 identified.)

14 BY MR. GIUFFRA:

15 Q Why don't you take a second and read this
16 through.

17 (Witness examined the document.)

18 A Okay.

19 Q I guess my first question will be this
20 criminal incident record, the name at the bottom of
21 it is Captain Hume.

22 A Yes.

1 Q He would have prepared this?

2 A Both pages, yes.

3 Q Would he have prepared this based also on
4 discussions with you?

5 A He was -- I'm not sure. Obviously I
6 discussed this whole search with him. I don't
7 believe so. If there was something that I observed
8 that he didn't, by rights he should have just asked
9 me to do a report on it.

10 Q So you were both in the room at the same
11 time?

12 A Yes.

13 Q My first question would be you testified
14 previously that, on the 21st, it was your
15 understanding that you would get to see the papers in
16 Mr. Foster's office; is that correct?

17 A Yes.

18 Q Did there come a time on the 22nd when you
19 learned you would not have a chance to see the papers
20 in Mr. Foster's office?

21 A Yes, when this search by the counsel's
22 office started with us as observers.

1 Q And so, was there any discussion prior to
2 the start of the search with regard to how the search
3 would be conducted that day?

4 A I thought there was discussion between
5 Mr. Margolis and Captain Hume that everything was
6 settled and we were beginning to search the office
7 and not until it started did I realize it was going
8 to commence in this fashion.

9 Q Did you recall when that conversation
10 between Captain Hume and Mr. Margolis occurred?

11 A It should have been the night before, prior
12 to 7:00 p.m.

13 Q Did Captain Hume advise you of any
14 conversation he had with anyone with regard to how
15 the search would be conducted on the morning of the
16 search?

17 A I know he spoke to Mr. Margolis, but I
18 didn't know there had been any changes at that
19 point. It was briefly outside the awning to the west
20 wing.

21 Q That morning?

22 A Yes.

1 Q Do you know what Mr. Margolis may have
2 said?

3 A No. I didn't overhear.

4 Q And Captain Hume didn't say anything to you
5 about what Mr. Margolis had said?

6 A Not that I recall, no.

7 Q Now, prior to the commencement of the
8 search of Mr. Foster's office, did you observe that
9 the door was locked to Mr. Foster's office?

10 A I don't recall. It may have been, but I
11 don't recall.

12 Q Do you recall whether there was a Secret
13 Service agent posted in front of Mr. Foster's office?

14 A Specifically at that time I don't recall.
15 I know I had seen an agent posted there.

16 Q At some point that morning?

17 A Yes.

18 Q Was it your understanding that the agent
19 was allowing people to enter the office?

20 A Yes.

21 Q And the agent was maintaining a log of
22 persons entering and leaving the office?

1 A Yes.

2 Q Do you have any understanding as to whether
3 people were allowed to enter and leave with documents
4 from the office?

5 A I believe they were, and if they did come
6 or go with anything, they were -- it would have been
7 entered in the log. Or that was the procedure that I
8 was under the impression was being followed.

9 Q Did anyone say why that was the procedure
10 that was being followed, that there was a need for
11 the people to take the documents out?

12 A It is my understanding that counsel's
13 office had free access in case they needed something
14 from the office, work related.

15 Q Did people say that was the reason why they
16 needed to be --

17 A That was my impression or understanding.

18 Q What I would like to do is have you just
19 give a narrative description of the events as you
20 recall them now with regard to the search of that
21 office, of Mr. Foster's office. What do you recall?

22 A It is a fairly small office. Myself, I was

1 sitting on the small, like love seat facing
2 Mr. Foster's desk. Scott Salter was next to me.

3 Q Was he on your right?

4 A To my right. Mr. Margolis was off to my
5 left, closer to the desk, in a chair. By his left or
6 behind him was Captain Hume.

7 Q Was Captain Hume standing?

8 A They tried to accommodate people with
9 chairs. I don't think he was standing. I think
10 everybody was seated. When one of the agents went to
11 stand up at one point, they accused him of trying to
12 peek at the documents. There were a couple Secret
13 Service agents in the room. The room was fairly
14 crowded at Mr. Foster's desk, with Mr. Nussbaum
15 reading this report. I recollect Mr. Burton being
16 there. And then the two other attorneys from the
17 counsel staff, Neuwirth and Sloan. I keep forgetting
18 his name.

19 Then there was an attorney there, Spafford,
20 the Foster family's attorney was also present. They
21 were all on the other side of that kind of an
22 imaginary line at Foster's desk.

1 Q Maybe it would be helpful if we take a
2 piece of paper and label this -- I will use a pencil
3 and make it easier. It will be labeled Markland
4 Exhibit 1.

5 If you could roughly sketch out for us what
6 you recall being the location of everyone.

7 A The last time I did this, the judge started
8 laughing and that was it.

9 Q You have been asked to do this before?

10 MR. BEN-VENISTE: The judge started
11 laughing?

12 THE WITNESS: Yes.

13 MR. BEN-VENISTE: Not in this case.

14 MR. GIUFFRA: Take your time.

15 THE WITNESS: Should I put where people
16 are?

17 BY MR. GIUFFRA:

18 Q Yes. Why don't you do it just by
19 initials. You have written BN on top of the desk.
20 He was standing in front of the desk?

21 A He was seated at the desk.

22 These people switched sides.

1 Q Just take your time and draw it as best you
2 can. Just put the initials of the people and then we
3 will go through the whole diagram.

4 (Witness complied.)

5 A Okay.

6 Q Okay, Sergeant Markland. You were sitting
7 on the left-hand side of the couch.

8 A Yes. This is the door leading from the
9 hall, so this is a solid wall.

10 MR. IVEY: Could he put permanent
11 indications there of what he is referring to, like
12 the door, for example.

13 BY MR. GIUFFRA:

14 Q Why don't you write down "door."

15 (Witness complied.)

16 Okay. You were sitting on the couch.

17 A Scott Salter.

18 Q He was to your right?

19 A Right.

20 Q Do you recall if there was a coffee table
21 in front of you?

22 A I believe there was.

1 MR. BEN-VENISTE: At the point where
2 Mr. Giuffra is making a circle.

3 BY MR. GIUFFRA:

4 Q In front of the couch?

5 A Yes.

6 Q And then there was a coffee table.

7 MR. BEN-VENISTE: Let the record -- maybe
8 it would be a good idea to put in red ink -- I can
9 give you a red pen -- the things that you remember
10 after Mr. Giuffra suggests them so that this diagram
11 won't be misleading.

12 THE WITNESS: I remember there was some
13 type of bookcase along this wall and along that
14 wall.

15 BY MR. GIUFFRA:

16 Q This is along the wall on the right as you
17 are facing this?

18 A Yes.

19 Q With regard to the coffee table, do you
20 recall any documents on the coffee table?

21 A No.

22 Q As far as you can recall, the coffee table

1 was clear?

2 A Yes. I don't really recall much about the
3 coffee table at all. It was nothing of interest.

4 Q Now, seated in what appears to be the
5 alcove near the door --

6 A It is a very tight area also.

7 Q This is Agent Imbordino. He was right
8 nearest to the door?

9 A Yes, both him and the other agent.

10 Q What was that other agent's name?

11 A Donald Flynn.

12 Q Do you recall who opened the door to let
13 everyone in?

14 A No.

15 Q And then --

16 A That is Margolis. He was sitting in a
17 chair right off to my left.

18 Q And then to his left was --

19 A All of these -- the position of all these
20 people here I'm not sure of.

21 Q You are pointing to Adams, Hume and --

22 A Condon.

- 1 Q Agent Condon.
2 A Yes.
3 Q You think they were to your left?
4 A I know they were to my left. I know
5 Margolis was seated in a chair there.
6 Q Now, you mentioned, I think you used the
7 expression "imaginary line."
8 Were you told where to sit by Mr. Nussbaum
9 or anyone on his staff?
10 A Yes. We were pretty much told to stay on
11 that half of the room.
12 Q You are talking about the bottom half of
13 the room, away from the desk?
14 A Right.
15 Q Did anyone tell you why? Who told you
16 that?
17 A Nussbaum ran the whole deal, sat at the
18 desk and told us exactly how the search was going to
19 go, that he would go through everything.
20 Q Okay, okay. But did he tell you where to
21 sit? Was he the person who told you where you had to
22 sit? Was it Mr. Neuwirth or was it Mr. Sloan?
-

- 1 A I remember Nussbaum doing all the talking
2 as far as how the search was going to go.
3 Q You were directed to keep a reasonable
4 distance from the desk?
5 A Right.
6 Q Did he express to you why he wanted the
7 agents and the attorneys for the Department of
8 Justice as well as yourself and Captain Hume to be
9 some distance from the desk?
10 A He was going to review all the documents
11 and decide whether or not they had any interest to
12 us.
13 Q Now, according to your chart, you indicate
14 that Mr. Burton is positioned fairly close to the
15 desk; is that true?
16 A Well, it is not a big office. So, anybody
17 here is close to the desk. I can remember Mr. Burton
18 going in and out a couple of times.
19 Q Mr. Spafford --
20 A He was there, the family's attorney.
21 Q Was he right next to the desk?
22 A Like I say, anything -- this is a matter of

1 feet.

2 Q But he was closer to the desk than were the
3 FBI agents, Department of Justice attorneys or
4 yourself?

5 A Absolutely, right.

6 Q Did you think that was a little strange,
7 the fact that the family attorney was closer to the
8 documents than the law enforcement officers?

9 A I thought this whole thing was strange.
10 After the pile that was determined to be family
11 documents was given over to the family attorney, for
12 their law firm to decide whether or not we could take
13 a look at them.

14 MR. GIUFFRA: Let's go off the record.
15 (Discussion off the record.)

16 MR. BEN-VENISTE: For the record, if need
17 be, it has been agreed that we can resume on Friday
18 at 2:00 so that we can keep another appointment for
19 later this evening that has been previously scheduled
20 and appears, for the convenience of the parties, to
21 be difficult to reschedule.

22 Thank you, Sergeant, for your flexibility.

1 BY MR. GIUFFRA:

2 Q Sergeant, what I would like you to do is
3 describe -- you said everyone was positioned in the
4 room as you have indicated on what is now Markland
5 Exhibit 1.

6 (Markland Exhibit 1 identified.)

7 BY MR. GIUFFRA:

8 Q Mr. Nussbaum was seated at Mr. Foster's
9 desk.

10 A Right.

11 Q What do you recall Mr. Nussbaum saying when
12 he first sat down and began the review of the
13 documents?

14 A That he would go through all the documents
15 and divide them into piles of things that may be of
16 police interest, the things that were strictly White
17 House business, and things that were family related.

18 Q Okay. Did Mr. Margolis object to this
19 procedure?

20 A It appeared to me that they had discussed
21 it, that that was how it would be.

22 Q Previous to coming into the room?

1 A Yes. He told me -- he advised me a couple
2 times over his shoulder if I wanted to object to
3 something, just to go ahead. He said treat this as a
4 normal investigation, and every time he said that, I
5 said there is nothing normal about this
6 investigation.

7 One of the times he said that, I said if
8 this was a normal investigation, this stuff would
9 have been packed up and in my trunk yesterday and I
10 wouldn't be here.

11 So, everybody laughed at that and we just
12 kept going.

13 Q Did Captain Hume object to the fact that
14 you were not allowed to look at the documents?

15 A No.

16 Q Did you object?

17 A No. The reason being is that the Justice
18 Department was involved. I thought they were
19 supposed to work out these details and more or less
20 be our advocate at that point once they were
21 involved.

22 Q So, it was your impression or at least

1 understanding that since the Justice Department had
2 worked out these arrangements with the White House
3 counsel's office, that there was no point in the Park
4 Police raising an objection?

5 A Right.

6 Q Would you have agreed to this procedure for
7 reviewing documents?

8 A No.

9 Q Why not?

10 A It was absurd. We had already lost control
11 over anything in that office, and then we have people
12 who maintained control the whole time exclusively
13 over papers that may be important to our
14 investigation, reviewing all the papers and telling
15 us whether or not they were important to our
16 investigation. We might as well have said to them,
17 go ahead and give us a call, if you find anything, we
18 will come back.

19 Q Were you concerned that Mr. Nussbaum or any
20 of the people who were working for Mr. Nussbaum might
21 have been keeping evidence from the Park Police?

22 A I was not under the impression that they

1 were keeping evidence concerning the death
2 investigation from us. I believe they were very
3 afraid we were going to find out something unrelated
4 to the death investigation.

5 And I do not believe -- and I'm sure we
6 will get into it later -- that the torn-up note
7 authored by Mr. Foster was found in the manner that
8 Mr. Nussbaum presented it to us.

9 Q What was the basis for your impression that
10 Mr. Nussbaum or people working for Mr. Nussbaum --
11 let's just stick with Mr. Nussbaum -- was concerned
12 that you might come upon information that he did not
13 want you to see?

14 A Because every document that they came
15 across would be discussed. Neuwirth and Sloan would
16 be whispering in his ear and they would decide it is
17 all White House business, it is all privileged
18 communication. Even if that was the case, even if
19 Mr. Nussbaum was doing his job the way he saw it, I
20 think he could have gone about it a much better way
21 and we could have all gotten our jobs done, in a lot
22 less time, correctly.

1 Q Was there anything that gave you the
2 impression that Mr. Nussbaum was trying to keep
3 documents that might be damaging to Mr. Foster from
4 the Park Police?

5 A Obviously he was trying to keep, and did
6 successfully keep, a huge number of documents from
7 the Park Police and anybody else. That he was
8 specifically trying to keep documents damaging to
9 Mr. Foster from us, the only evidence at all to
10 support that may be that ripped-up legal pad note.

11 Q Did you have any impression that he was
12 trying to keep documents that might be damaging to
13 the White House from the Park Police or the
14 Department of Justice?

15 A He kept documents from everybody. Whether
16 they are damaging to anybody, which documents they
17 were, I mean, I will never know. How can I say?

18 Q After Mr. Nussbaum advised the persons
19 present that he would be dividing the documents into
20 piles -- is that correct?

21 A Yes.

22 Q What did he do next, that you recall?

- 1 A He started going through the documents,
2 starting with the top of Foster's desk.
3 Q So he pulled out the top of Mr. Foster's --
4 A No. The top. The top.
5 Q There were documents on the top of
6 Mr. Foster's desk?
7 A Right.
8 Q Do you recall how many documents were on
9 the top of Mr. Foster's desk?
10 A No.
11 Q Do you recall if there were piles on
12 Mr. Foster's desk or there were just a few documents
13 on Mr. Foster's desk?
14 A More than a few. It was a fairly cluttered
15 desktop.
16 Q Were the documents on Mr. Foster's desk
17 arranged in an orderly fashion?
18 A Fairly.
19 Q Were the documents loose pieces of paper or
20 were they file folders or both?
21 A It could be both. I can't recall. I know
22 there were loose documents also.
-

- 1 Q Do you think there were file folders?
2 A There could have been some. But there were
3 loose papers.
4 Q Do you recall if there were any family
5 pictures on the desk?
6 A I can't recall. I know there were some in
7 the office.
8 Q Do you recall if there was, for example,
9 like a pen set on Mr. Foster's desk?
10 A I don't recall.
11 Q Was there an in/out box on Mr. Foster's
12 desk?
13 A I'm not certain.
14 Q Do you recall anything else about the top
15 of Mr. Foster's desk?
16 A No.
17 Q Mr. Nussbaum then proceeded to go through
18 the documents on the desk?
19 A Right.
20 Q And did he look at each document, and what
21 did he say, or what would he do?
22 A He would look at it. After a very brief

1 perusal, he would say to Margolis, this has to do
2 with something he was working on for the White House,
3 boom, this, you know.

4 Q Did he -- when he said he was working on
5 something, did he mention a particular subject
6 matter?

7 A Sometimes he did.

8 Q Do you have any recollection of the subject
9 matters that he mentioned?

10 A I can't recall.

11 Q Do you recall whether he mentioned the
12 incident at Waco?

13 A I don't believe he did.

14 Q Do you recall whether he mentioned the
15 firing of certain employees of the White House travel
16 office?

17 A I don't believe so.

18 Q Do you recall whether he mentioned
19 documents concerning Supreme Court appointments?

20 A I don't think so. The only subjects I
21 recall for the most part were more broad-based type
22 assignments that Foster apparently had been working

1 on, nothing like -- like health care, really
2 broad-based subjects.

3 Q You recall health care being one of the
4 subjects?

5 A I believe so, yes.

6 Q Did you recall any other subjects?

7 A No.

8 Q Do you recall him discussing documents
9 relating to the President or First Lady's finances?

10 A I'm not certain.

11 Q It is possible?

12 A It is possible.

13 Q Did he discuss documents related to
14 President or First Lady's financial disclosure
15 obligations?

16 A It's possible. I can't be certain.

17 Q Did he discuss documents related to the
18 President and First Lady's tax returns?

19 A I can't be certain. I don't remember.

20 Q And for some of the documents, would he not
21 say what the subject matter was?

22 A He would title it in some fashion. Some of

1 them he would just say merely that they were personal
2 to Mr. Foster and put them in a file for the family's
3 attorney ultimately to take. He would make some kind
4 of note of each thing.

5 Q Would he say this is a national security
6 document, for example?

7 A More in the line of this is something he
8 was working on for this office and put it right in
9 the White House pile.

10 Q At any time during the course of this
11 review procedure, did he allow anyone from the
12 Department of Justice to look at a single document?

13 A No.

14 Q At any time during the course of this
15 procedure, did he allow anyone from the Park Police
16 to look at the documents?

17 A No.

18 Q At any time during the course of this
19 procedure, did he allow anyone from the FBI to look
20 at any of the documents?

21 A No.

22 Q During the course of this procedure, did he

1 allow Mr. Foster's attorney, Spafford, to look at the
2 documents?

3 A He was in a position where he could --

4 Q Spafford could see the documents?

5 A He could see them. I don't believe he was
6 examining any of them. He was there strictly, I
7 think, to take possession of what Mr. Nussbaum was
8 prepared to give him.

9 Q But it would be your testimony that he was
10 in a position to have observed or to have read some
11 of the documents?

12 A It is possible, yes.

13 Q Because he was close to the desk?

14 A Yes. At one point, Scott Salter stood up
15 to stretch his legs. He was clear across the room.
16 And they were worried about him seeing something on
17 the top of the desk.

18 Q Scott Salter was sitting next to you on the
19 couch?

20 A Right.

21 Q He stands up and what happened? Did
22 Mr. Nussbaum say something?

1 A No, not Nussbaum. One of -- I think

2 Captain Hume makes mention of it.

3 Q Do you recall whether it was Mr. Sloan?

4 A Captain Hume writes "at one point Special
5 Agent Scott Salter stood up and stretched. Mr. Sloan
6 challenged him and accused him of standing up and
7 trying to take a look at documents."

8 Q What was the tone of Mr. Sloan's voice?

9 A Accusatory. It struck me as juvenile
10 also.

11 Q Did he raise his voice, like sit down?

12 A It was kind of like, you are not trying to
13 peak, are you, one of those things. It was
14 ridiculous. At the same time Salter was getting very
15 mad, and between Margolis and Nussbaum, just calmed
16 everybody down.

17 Q Why was Salter getting mad?

18 A Well, we are clear across the room and he
19 is accusing an FBI agent of trying to peek. It was
20 just absurd.

21 Q Now, Sergeant, you testified that

22 Mr. Nussbaum pulled out the top front drawer of

1 Mr. Foster's desk.

2 A I didn't testify to that. I think you
3 did. I don't recall the center top drawer. I know
4 that he went through the drawers in the desk.

5 Q Did he have to unlock any of the drawers?

6 A No.

7 Q The drawers were all unlocked, as best you
8 recall?

9 A Yes.

10 Q Were any of the cabinets locked?

11 A If they were locked, they had keys to
12 them. All the doors and cabinets were open while we
13 were there. I don't recall any of them needing to be
14 unlocked.

15 Q Mr. Nussbaum went through each drawer in
16 Mr. Foster's desk?

17 A Yes.

18 Q Did he empty the drawer and then place the
19 documents in piles or did he --

20 A He merely went through the drawer and then
21 would say that was all in that drawer and go to the
22 next.

1 Q So, there never was -- was there ever a
2 time where he would be positioning documents on the
3 desk into piles?

4 A Yes.

5 Q So he would take out the contents of each
6 drawer and then place the documents --

7 A As he went through, briefly read each
8 document, he would say what he thought of it and put
9 it in whatever pile he thought appropriate.

10 On a couple of occasions, Margolis objected
11 and said I think we might want to look at that, and
12 actually, Nussbaum made another pile for those papers
13 that they had some kind of disagreement on.

14 Q Do you recall how many piles there were?

15 A I think he wound up with four piles.

16 Q What was your understanding as to the
17 documents being placed on each pile?

18 A Strictly White House business, papers that
19 might interest the police, of family interest only,
20 and then I believe the fourth pile was anything that
21 he would have discussed at a later time with
22 Margolis.

1 Q I would imagine that these piles got fairly
2 high after a while?

3 A It wasn't that bad. A lot of the filing
4 cabinets, the file drawers, whatever, they would say,
5 well, these are files concerning whatever, and they
6 stayed in place. They didn't get stacked up on top
7 of the desk.

8 Q So the stacking procedure was only
9 undertaken with respect to the documents that were in
10 the desk?

11 A For the most part, I believe, yes.

12 Q When you say "for the most part," what do
13 you mean by that?

14 A There may have been some loose papers he
15 would have taken out of a file cabinet like off to
16 the right of the desk or something. But we didn't
17 wind up with huge 5-foot piles on the desk or
18 anything.

19 Q Do you recall whether it appeared that the
20 desk drawers, that there were a lot of papers in the
21 desk drawers?

22 A I couldn't see inside the desk drawers.

1 Q Did you have an impression of whether he
2 was taking a lot of paper out or just a little bit of
3 paper?

4 A I don't know how to answer that. A normal
5 amount, no huge amount. They weren't stuffed.

6 Q Were any of the drawers empty?

7 A I don't recall.

8 Q Were there any side file cabinets on the
9 desk where you could put in hanging folders or flat
10 folders?

11 A I couldn't see inside the drawers. I can
12 remember them opening drawers off to the side.
13 Whether they were the type that held files I couldn't
14 tell.

15 Q Do you recall him taking any files out of
16 the desk or was it just loose paper?

17 A I'm not certain, but there were probably
18 some file folders.

19 Q Do you remember the color of the file
20 folders?

21 A No.

22 Q Were the file folders, could they have been

1 white or tan?

2 A I don't remember.

3 Q After he finished searching the desk --
4 now, what has been marked as Markland Exhibit 1
5 indicates that there was -- the desk is in the center
6 of the room. Then was this a small credenza --

7 A Right.

8 Q This would be to the left as you were
9 looking at the desk?

10 A Correct.

11 Q Were there any papers on top of that
12 credenza?

13 A I don't recall seeing any. There may have
14 been, though.

15 Q Were there any papers on top of that
16 credenza?

17 A I don't know.

18 Q Did Mr. Nussbaum then go and pull documents
19 out of the credenza, or did he just look through the
20 documents in the credenza and then leave them in the
21 credenza?

22 A I believe he went through them but then

1 left them in place where they were, unless he
2 determined that they were family or whatever.

3 Q Or police.

4 A To my best recollection, most all those
5 documents in there he stated were just White House
6 business.

7 Q Do you recall whether the credenza
8 contained -- could you see into the credenza?

9 A No.

10 Q Do you recall for approximately how long
11 Mr. Nussbaum looked at the documents in the desk,
12 about how long that took?

13 A The entire search took from -- it took
14 about an hour and a half. We probably spent at least
15 45 minutes between the desk and the briefcase and
16 stuff like that.

17 Q With regard to the briefcase, did he search
18 the briefcase before he looked in the credenza, the
19 credenza to your left?

20 A I believe so.

21 Q So, first Mr. Nussbaum looked at the
22 contents of the desk and the items on top of the

1 desk, and then he looked at the briefcase?

2 A I believe so. I think that was the
3 sequence.

4 Q Let's borrow Mr. Ben-Veniste's red pen.
5 If you could indicate where you believe the
6 briefcase was located. Was it on the desk? Was it
7 to the side of the desk?

8 MR. BEN-VENISTE: The red pen was when you
9 suggest something to the witness. The black pen is
10 when the witness does it himself.

11 THE WITNESS: I know he was going through
12 it. It was right off to his right.

13 BY MR. GIUFFRA:

14 Q Mark on there "BC."

15 (Witness complied.)

16 Was it behind the desk?

17 A It was off to the right. For illustration,
18 this desk is open to the center. I could see the
19 edges of the briefcase through the opening and I was
20 watching him go through it there.

21 Q You could not see into the briefcase from
22 where you were sitting?

1 A No.

2 Q And Captain Hume I believe was standing.
3 He could not see in?

4 A I'm not sure whether he was standing or
5 sitting. I don't believe anybody could see down into
6 it.

7 Q The people on the other half of the room?

8 A Right.

9 Q Okay. Now, if you could just slowly go
10 through what your best recollection is with regard to
11 the search of the briefcase.

12 A He would reach down, take papers out of the
13 briefcase, put them on the desk, go through them, put
14 them in the appropriate piles. When he got done, he
15 said that's it, it's empty. After that he picked up
16 the briefcase with both hands, spread it apart a
17 little bit, tilted it, put it back down and shoved it
18 to the back of the room.

19 I could see the briefcase lifted off the
20 floor by him and tilted, put it down, said it was
21 empty two times and moved it back.

22 Q The briefcase was immediately to

1 Mr. Nussbaum's --

2 A Right.

3 Q -- right. Was there anyone standing or
4 sitting next to Mr. Nussbaum at this point in time
5 when he was looking through the briefcase? Do you
6 recall if Mr. Sloan was present or Mr. Neuwirth?

7 A I believe they were both present. They
8 would have been right in the immediate -- right
9 behind his chair.

10 Q You think they would have been standing in
11 a position where they could have seen into the
12 briefcase?

13 A Yes, I think so.

14 Q Do you think that Mr. -- do you recall
15 whether Mr. Spafford was in a position where he could
16 look into the briefcase?

17 A He may have been, but the way his demeanor
18 was, he didn't seem like he was trying to act overly
19 interested in things that would be of no concern to
20 him. He was more standing by to take possession of
21 whatever they wanted to release.

22 Q Was Mr. Burton in a position to where he

1 could see what was in the briefcase?

2 A At that time, I couldn't say. There were a
3 couple times when he went in and out of the room. He
4 had free access. But I couldn't say if he was
5 looking right down there. Sloan and Neuwirth were
6 right behind Nussbaum. They would both, at times,
7 whisper in his ear every time they came across a
8 document, in deciding what they wanted to do with
9 it.

10 Q Now, after Mr. Nussbaum had taken -- was it
11 file folders that were in the briefcase or loose
12 paper?

13 A Pretty much just loose papers.

14 Q After he emptied the briefcase of the loose
15 paper, would this be paper, 8-1/2 by 11?

16 A He would take them out and review it as he
17 emptied it. He didn't dump anything on the desk and
18 then go through it.

19 Q He took each document out one by one?

20 A Yes.

21 Q Were the documents 8-1/2 by 11 pieces of
22 paper?

1 A As far as I can recall.

2 Q Do you recall if there were any legal pads
3 in the briefcase?

4 A I don't recall. I wish I could.

5 Q Do you recall if there were any pens in the
6 briefcase?

7 A I can't remember.

8 Q Do you recall if there were any Post-it
9 notes? Did he take any Post-it notes out of the
10 briefcase?

11 A I do not remember.

12 Q He did not return the papers back into the
13 briefcase?

14 A No.

15 Q So, he placed all the papers in the various
16 piles that we have talked about, and your
17 recollection is he then looked into the briefcase.

18 A He said it was empty.

19 Q At that point when he said it was empty,
20 did Mr. Neuwirth say anything? Did he concur, shake
21 his head up and down?

22 A I don't recall.

1 Q Do you recall whether he was looking in the
2 briefcase at that point?

3 A I was just focused on the briefcase. For
4 some reason I was just staring at the briefcase, what
5 I could see of it.

6 Q Do you recall whether Mr. Sloan was looking
7 in the briefcase?

8 A I don't recall. Like I said, they are
9 right there.

10 Q Your testimony is that Mr. Nussbaum was
11 sitting at his chair, at Foster's chair, and he is
12 looking in the briefcase. About how far was
13 Mr. Nussbaum's eyes from the top of the briefcase, as
14 best you could tell? A foot? 6 inches?

15 A Somewhere between 2 to 3 feet. I don't
16 know. He is a short guy.

17 Q Did it appear to you he was looking down
18 directly into the bottom of the briefcase?

19 A Yes.

20 Q Given where Mr. Nussbaum was sitting and
21 the location of the briefcase, had there been a
22 torn-up note in the briefcase, do you think it would

1 have been possible for him not to have seen it?

2 A I don't believe so.

3 Q And why do you believe that?

4 A Because he is looking for documents, he has
5 a co-worker and friend who is dead. One of the
6 things he may be looking for could presumably be
7 ripped up, he is not a stupid person. And he
8 physically picked up the briefcase at one point and
9 tilted it and I saw it come off the floor and tilt,
10 and then he put it down and said it is empty.

11 Q The first time Mr. Nussbaum said the
12 briefcase is empty, it was on the floor; is that
13 correct?

14 A Yes.

15 Q Do you recall for how long he was looking
16 into the briefcase? Two, three, four seconds? One
17 second?

18 A Yes. It was brief. He had been constantly
19 taking papers out of there and reviewing them.

20 Q How long do you think this whole process of
21 searching the briefcase took?

22 A Probably five minutes.

1 Q After saying -- while the briefcase is on
2 the floor and saying that it is empty, Mr. Nussbaum
3 then picked it up or tilted it up?

4 A No, he didn't pick it up in everybody's
5 view. I could still just see like under the table.
6 I knew that he picked it up. I couldn't see his
7 hands but I saw it tilt. He put it back down and
8 shoved it to the rear.

9 Q The second time he looked into the
10 briefcase --

11 A That's what I'm talking about.

12 Q The first time --

13 A The first time it was laying there and he
14 said it was empty.

15 Q And then he picked it up and said it is
16 empty after looking at it again?

17 A Correct.

18 Q At that point, was anyone else looking at
19 the briefcase?

20 A I don't know, but like I said, Sloan and
21 whoever was standing right behind the briefcase moved
22 over to let him slide it back. It was the focus.

1 Q What kind of a briefcase was this?

2 A The best of my recollection, it was kind of
3 a bag that would open on top.

4 Q Do you recall the color of the briefcase?

5 A I thought it was dark brown, but I might be
6 wrong about that.

7 Q Do you recall whether it had a latch that
8 had to be opened and then slid open or whether it
9 was -- do you recall how the briefcase opened?

10 A I thought it was the kind that there would
11 be a flap over the top and the top would open.

12 Q But no zipper?

13 A No. Like I said, I could just see it from
14 like a three-quarters view of the thing.

15 Q When Mr. Nussbaum said to you that the
16 briefcase was empty, you took that to mean that there
17 was nothing left in the briefcase?

18 A Right.

19 Q Meaning there were no scraps of paper
20 whatsoever?

21 A I took it to mean that it was empty.

22 Q After Mr. Nussbaum was finished looking in

- 1 the briefcase, put the briefcase behind him --
- 2 A He just slid it straight back.
- 3 Q Do you know whether he closed it at that
- 4 point or left it open?
- 5 A He didn't make any effort to close the top
- 6 or anything. I think it was left open. He just slid
- 7 it back.
- 8 Q Do you recall, after when he pushed it to
- 9 the back behind Mr. Foster's desk, whether anyone
- 10 else looked in it at any point during the remainder
- 11 of the search?
- 12 A Not obviously. I mean, they may have
- 13 looked down at it.
- 14 Q Do you think it is possible they would have
- 15 had an opportunity to look down into the briefcase?
- 16 A It is possible.
- 17 Q Just to finish this off, Mr. Nussbaum then
- 18 went through the credenza on the left-hand side as
- 19 you were facing the desk?
- 20 A I believe that was the sequence.
- 21 Q Do you recall, were there file cabinets?
- 22 Was this like a file cabinet that slid open or was

- 1 this just a place where papers could be stacked
- 2 inside?
- 3 A I think they were more like long file
- 4 drawers.
- 5 Q That came out?
- 6 A I'm not certain. I'm really not.
- 7 Q Could you see the contents of those
- 8 cabinets?
- 9 A No.
- 10 Q Did Mr. Nussbaum pull any of the documents
- 11 out of the cabinets and put them back in?
- 12 A I know he did actually review them and say
- 13 what they were. I don't recall him pulling -- I
- 14 don't recall him pulling any of them out to lay on
- 15 top of the desk piles. But he may have with a couple
- 16 of them. I'm not certain.
- 17 Q But not with the vast majority?
- 18 A No.
- 19 Q Do you recall whether there were a lot of
- 20 documents in that credenza?
- 21 A It didn't take very long to go through.
- 22 Q How long would you estimate it took to

1 search that part of that credenza? Five minutes, 10
2 minutes?

3 A Five or 10 minutes.

4 Q After Mr. Nussbaum finished reviewing the
5 documents in the credenza to his right -- after he
6 finished reviewing the documents, did he get up from
7 the desk chair?

8 A I think he kind of slid the chair over that
9 way.

10 Q He slid the chair over and then reviewed
11 the documents?

12 A I believe so.

13 Q Then what did Mr. Nussbaum do?

14 A Well, whatever was here -- and I cannot
15 remember. This is a long bookcase type of thing. It
16 went around the room clockwise. There was nothing
17 really of any substance or anything really in the
18 rest of the room.

19 Q Let's --

20 MR. BEN-VENISTE: Off the record.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

1 Q Do you recall any documents on -- loose
2 documents or file folders along the bookcase to
3 Mr. Nussbaum's left?

4 A I don't.

5 Q Was that clear of any materials?

6 A There was a higher type bookcase, and I
7 believe there were some decorative knickknacks or
8 whatever, possibly pictures in there, along with
9 cabinets along the bottom.

10 Q Did he ever look in the cabinets along the
11 bottom?

12 A He looked everywhere.

13 Q Did he look in those cabinets?

14 A Yes.

15 Q Did he indicate whether there was anything
16 contained in those cabinets?

17 A I don't think there was.

18 Q It would be your testimony there was
19 nothing contained in the cabinets to the left of the
20 desk?

21 A I don't recall Nussbaum ever saying there
22 was or pulling anything out of there. I know that he

1 went into everything, including the things, the
2 little small cabinets at that time were behind us in
3 the room before we left.

4 Q But the cabinets to the left of the desk,
5 there wasn't anything in there as far as you know?

6 A Not as far as I recall.

7 Q There weren't any books inside the
8 cabinets, any binders?

9 A I don't recall any.

10 Q Now, in the bookcase itself, were there
11 just a number of books, one would think?

12 A I really don't recall anything of
13 significance coming from that bookcase.

14 Q Do you recall whether there were any
15 binders in the bookcase?

16 A I don't.

17 Q Do you recall whether Mr. Nussbaum pulled
18 out any of the books that were in the bookcase and
19 looked through them?

20 A I don't recall anything like that. I know
21 that he did go through that.

22 Q You can't recall whether there were any

1 binders there?

2 A No.

3 Q And you can't recall whether there were any
4 file folders that were placed between books, for
5 example --

6 A No.

7 Q -- or any loose documents?

8 When Mr. Nussbaum looked in the cabinet
9 immediately behind you to your left --

10 A It was empty.

11 Q Do you recall what was in that cabinet?

12 A Maybe one knickknack or something. It was
13 basically empty.

14 Q Did you have the impression that
15 Mr. Nussbaum had been through -- had looked through
16 the documents in the office prior to the time when he
17 reviewed the documents on July 22nd?

18 A I believed he had, but I'm not sure.

19 Q Why did you believe that?

20 A It doesn't take people three hours to look
21 on top of a desk for a suicide note, which is what
22 they said they did the night before, the night of

1 Mr. Foster's death.

2 Q Did you have any information that
3 Mr. Nussbaum had previously reviewed, for example,
4 the documents contained in Mr. Foster's desk?

5 A I believe he did, yes.

6 Q Did he exhibit any awareness of the nature
7 of those documents, like, for example, did he pull
8 out a drawer and say oh, these are the documents?

9 A No. He looked through everything.

10 Q This would just be an impression that you
11 had?

12 A Yes.

13 Q An instinct?

14 A It is just logic. I mean that and then he
15 went back the next morning for a while to look around
16 some more.

17 Q This would be on the 21st?

18 A Right.

19 MR. GIUFFRA: Could we take a break for
20 five minutes right now.

21 THE WITNESS: Okay.

22 (Recess.)

1 BY MR. GIUFFRA:

2 Q After Mr. Nussbaum went around the room,
3 what happened next?

4 A At some point it was decided -- I forget
5 who said what -- that it was concluded and I said
6 where's the trash. They went oh. And I think it was
7 Sloan -- I can't remember if it was Sloan or Neuwirth
8 went running out of the room and came back with a bag
9 of trash.

10 Q So the bag of trash was not in the room?

11 A Right, it was not. It was already the
12 second or third time this bag of trash disappeared
13 from that room.

14 Q And you had been told that it was back in
15 the room?

16 A Right.

17 Q And then what happened with the bag of
18 trash?

19 A Well, Nussbaum went through it and said
20 nothing is there.

21 Q Was it a clear bag of trash?

22 A Yes.

- 1 Q Was it tied?
2 A Yes.
3 Q Was there anything attached to the bag of
4 trash that you can recall?
5 A No.
6 Q An inventory of documents on the bag of
7 trash?
8 A Not that I know.
9 Q How long did it take him to go through the
10 bag of trash?
11 A Not very long at all.
12 Q Did he go through the bag of trash on the
13 desk, undo it, and take each item out?
14 A There was very little in there. The best I
15 can recall, he just looked through the papers in the
16 bag. That was it.
17 Q Do you recall anything that was contained
18 in the trash bag, any torn receipts, credit card
19 receipts, anything like that?
20 A He didn't specify.
21 Q What was in the trash bag?
22 A No.
-

- 1 Q But he looked through the entire trash bag
2 as far as you knew?
3 A He said he did.
4 Q Was there any discussion of a burn bag?
5 A No.
6 Q And you didn't raise it?
7 A I didn't raise it, no.
8 Q What happened -- was there anything else of
9 any significance that happened during the search that
10 we haven't gone over -- during the review of the
11 documents, that you can recall?
12 A Not that I can recall.
13 Q Do you recall whether there were any trash
14 cans in Mr. Foster's office?
15 A There may have been one behind the desk,
16 but I'm not positive now anymore. All I know is that
17 they had to go out of the office at that point and
18 come back in with the trash bag. And he went through
19 it.
20 Q Just to be clear on one thing. Do you
21 recall Mr. Nussbaum doing any review of documents on
22 the coffee table?

1 A No.

2 Q During the course of the search, was anyone
3 who was present during the review -- during the
4 review, excuse me -- called or paged or asked to
5 leave the review that you can recall?

6 A I can remember either Sloan or Neuwirth
7 going out and coming back and also Burton.

8 Q Did you overhear any of the conversations
9 between Mr. Nussbaum or any of the other White House
10 officials?

11 A No.

12 Q Were they speaking in a low, hushed voice?

13 A Whispers.

14 Q Did you say anything to Mr. Nussbaum about
15 the fact that the trash was not in the office and had
16 to be retrieved? Did you ever make a comment about
17 that? Did you say anything like well, you told me
18 the trash was in the office?

19 A No. Whoever went out to get it, after I
20 asked for that, said oh, they took it out of the
21 office by mistake. I didn't say anything -- I didn't
22 raise anything after that.

1 You already know -- we had already been
2 told that the trash had been retrieved and returned
3 to the office, so this trash keeps like popping out
4 of this office. It was getting almost comical by
5 then.

6 Q What do you mean by "getting almost
7 comical"?

8 A It was absurd. I sat there shaking my head
9 the whole time.

10 Q Was Captain Hume shaking his head?

11 A I don't know. I was just staring at
12 Mr. Nussbaum. I was really getting to not like him a
13 lot.

14 Q Were you very angry at the way he conducted
15 this review of documents?

16 A Yes. The whole thing, even after the first
17 day there, about halfway through that, the whole
18 thing seemed absurd to me. I was disgusted and I
19 pretty much didn't expect anything to come out of it
20 for us.

21 Q You just did not think this was the proper
22 way to conduct an investigation?

1 A No.

2 Q Now, what happened when the review was
3 over?

4 A That's when we left the office and Neuwirth
5 pulled me into Nussbaum's office with the other
6 information.

7 Q Did everyone leave Mr. Foster's office or
8 did some people remain in Mr. Foster's office?

9 A The best of my knowledge, everybody left.

10 Q Do you recall whether before everyone left
11 any of the documents were given to the family lawyer?

12 A I believe so. The pile that had been set
13 aside for them I think was handed over to him.

14 Q Do you recall him actually picking up the
15 pile and putting it in a briefcase or folder?

16 A I can't be certain. I know they did go
17 with him. At one point they got there. I think
18 Rolla went out to review them at some point later
19 on.

20 Q You don't recall whether the documents were
21 given to the family lawyer at that point?

22 A No.

1 Q You testified there were documents that
2 were placed in the category of police. Do you know
3 how big that pile was?

4 A Not very big. And I never got to review
5 them.

6 Q Did you ever ask to review those documents?

7 A I never followed up on it. I believe
8 Mr. Margolis was supposed to, the attorneys were
9 supposed to go through it. I never followed up on
10 asking for those.

11 Q In terms of the size of the various piles
12 when he was finished, roughly how tall was the family
13 pile?

14 A Not very.

15 Q About a foot high?

16 A No. They were all fairly short stacks, not
17 much.

18 Q If you could estimate the height of the
19 various stacks, what would be your estimate?

20 A The White House papers, maybe 3 to 6
21 inches. The family stack was maybe 2 to 3 inches.

22 Probably less than an inch for what Nussbaum

1 classified we might be interested in, things we
2 brought up objections to during the stacking and were
3 going to be reviewed.

4 Q Again, these were only documents from
5 Mr. Foster's desk, except for --

6 A The briefcase, yes.

7 Q A total, if you put all the stacks
8 together, maybe about a foot and a half?

9 A A foot.

10 Q So not very much paper?

11 A No, not really.

12 Q And these documents were the primary
13 documents that were reviewed by Mr. Nussbaum during
14 this session, review session?

15 A Well, he supposedly reviewed everything
16 that was in that office.

17 Q But he spent most of his time reviewing the
18 documents in the desk?

19 A He took the most time reviewing the
20 documents on the desk and briefcase.

21 Q Do you recall the documents on the desk
22 being in file folders or were they just loose papers?

1 A I don't recall.

2 Q Do you recall any discussion of telephone
3 logs?

4 A There was discussion about getting
5 telephone logs. They said they would have to obtain
6 it from the computer system and that was going to
7 happen at a later time.

8 Q Do you know whether the telephone logs were
9 ever turned over to the Park Police?

10 A I don't believe they were. I think they
11 looked at them or said they looked at them and said
12 they were just official calls. We never got anything
13 from them.

14 Q Do you recall whether Mr. Foster had a
15 calendar?

16 A I don't recall.

17 Q On his desk, a desk calendar?

18 A I don't know.

19 Q Do you recall whether he had a diary?

20 A I didn't -- I definitely was not aware of a
21 diary, because if he had a diary, we would have been
22 very interested in it.

1 Q Do you know whether Mr. Foster stored
2 documents outside of his office? Did you ask that
3 question?

4 A I didn't ask that specific question. For
5 some reason I was under the impression that nothing
6 but the general information or completed documents
7 would be stored anywhere else except in the private
8 offices there.

9 Q Now, there is a discussion in Captain
10 Hume's report which says here "Nussbaum carried his
11 interpretation of what was considered privileged to
12 the extreme."

13 MR. IVEY: What page are you on?

14 MR. GIUFFRA: I'm on page 37.

15 BY MR. GIUFFRA:

16 Q "One example was when he picked up a Xerox
17 copy of a newspaper article and declared that it was
18 a privileged communication even though it had been in
19 the newspapers."

20 A Right. I remember that.

21 Q What do you recall about that incident?

22 A They had to argue about that, that it was a

1 published newspaper and what is the privilege. That
2 went in their stack that they would talk about
3 later.

4 Q Did Mr. Margolis seem perturbed?

5 A Yes.

6 Q Were there other occasions during the
7 course of this review process that he seemed
8 perturbed or angry at Mr. Nussbaum?

9 A Upset. I wouldn't say angry. He objected
10 a couple times saying that we agreed something else
11 or something.

12 Q Do you recall anything more that he might
13 have said?

14 A No. Very limited objections.

15 Q How did it appear to you -- how did the
16 relationship between Mr. Nussbaum and Mr. Margolis
17 appear to you? Did they seem to be getting along or
18 not getting along? Businesslike?

19 A Yes, strictly businesslike.

20 Q In this report on page 37, it says
21 "occasionally Detective Markland or Margolis would
22 ask him to place a certain note or document in a pile

1 for possible police examination."

2 Do you recall doing that?

3 A Yes. Merely him saying, giving a document
4 some type of a broad scope title and one of us
5 saying, well, let's take a look at that later and
6 just change his mind and put it in the pile for
7 possible review by us.

8 Q Do you recall the nature of the documents?

9 A No. After a while I was doing it just to
10 mess with him. I never got to see any of that stuff
11 anyway.

12 Q The second full paragraph on page 37, there
13 is discussion of the review of the briefcase.

14 A Okay.

15 Q Why don't you read this part?

16 A "At one point Nussbaum pulled some papers
17 out of a leather valise sized briefcase sitting on
18 the floor behind the desk. He then looked in the
19 valise briefcase again but did not take anything out
20 of it."

21 Q At the time that this was written, neither
22 you nor Captain Hume knew -- the note had not been

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1 discovered?

2 A No. I recollect him taking the papers out
3 one by one and reviewing them and putting them in
4 stacks. He is saying they took them out all at
5 once.

6 Q You recall one by one?

7 A Yes.

8 Q Now, there is a discussion -- let's just
9 look to the last paragraph on page 37. It says in
10 the middle of the third full paragraph on page 37
11 "the telephone logs were not turned over to us."

12 A Right.

13 Q Does that refresh your recollection of a
14 discussion involving the telephone logs?

15 A Yes. He was talking about computerized
16 telephone logs, that they would have to review
17 those.

18 Q Now, further on down it says, it appears to
19 be at 2:50, 1450 hours, the next sentence, read that
20 into the record.

21 A "Margolis cautioned Nussbaum and his staff
22 not to remove anything from the office. Nussbaum

1 stated he could not leave the office secured any
2 longer."

3 Q Let's stop right there.

4 What do you recall about that interchange
5 between Nussbaum and Margolis?

6 A I actually don't recollect that.

7 Q You don't recall any discussion about what
8 would happen with regard to the contents of the
9 office?

10 A I don't recollect him warning him not to
11 remove anything.

12 Q What was your understanding as to what
13 would happen with the contents of the office
14 following your review, following the Nussbaum review?

15 A The contents of the office following -- I'm
16 not sure I understand the question.

17 Q After the review was completed, what did
18 you believe would happen to the documents that were
19 in Foster's office?

20 A I thought that we would at least be taking
21 some out of there.

22 Q Was it your understanding that the office

1 would remain secured after that point?

2 A If we hadn't gotten -- well, I didn't know
3 what to expect by then. Like I said, on that day, I
4 thought we would be searching the office. Nothing
5 was communicated to me by Margolis or the other
6 attorney. I really didn't know what was going to
7 happen by then.

8 Q Now, in retrospect, would you have liked to
9 have had the opportunity to review all of the
10 documents in Foster's office?

11 A Yes, absolutely.

12 Q Why would that have been?

13 MR. BEN-VENISTE: We covered this at least
14 twice. It is 5:00 now. It is after 5:00 now.

15 BY MR. GIUFFRA:

16 Q You might not have reviewed every document
17 in the office but you wanted the opportunity to
18 review the documents?

19 A To at least have seen in general for myself
20 if it was just strictly White House business. There
21 are handwritten notations in the margin or something
22 that might pertain to something I'm interested in.

1 For control, the same reason I would want to have
2 sole access to that office first to do that search.

3 Q Do you believe that the Park Police were
4 denied access to the papers in Mr. Foster's office?

5 A We were. Yes, we were.

6 Q Do you think that was inappropriate under
7 the circumstances? Were you satisfied with the
8 conduct of this particular review?

9 MR. BEN-VENISTE: How many questions do you
10 want to ask at the same time? Excuse me but while
11 Detective Markland is thinking about his answer to
12 the first question, you ask a second question. I
13 don't see how it is possible to answer. Pick one.

14 THE WITNESS: Which question do you want me
15 to answer?

16 BY MR. GIUFFRA:

17 Q Answer the first one.

18 A Which was what?

19 Q Do you think this was an appropriate way
20 for the Park Police to conduct its investigation?
21 Let me try to rephrase the question.

22 A There was not a whole lot we could do.

1 Q Do you think Mr. --

2 A Nussbaum?

3 Q -- Mr. Nussbaum was behaving in an
4 appropriate manner in not allowing the Park Police
5 officers to review the documents in Mr. Foster's
6 office?

7 A I think he could have done a much better
8 job of accommodating us and helping us in our
9 investigation.

10 Q In your view, did Mr. Nussbaum interfere
11 with your investigation?

12 A Well, the search of the office was totally
13 blocked. In the interview, the witnesses, obviously,
14 for lack of a better phrase, were interfered with.

15 Q All right. After you concluded the second
16 interview with Ms. Gorham, did you then leave the
17 White House?

18 A I believe so.

19 Q You went back to Park Police headquarters?

20 A Well, to the criminal investigations
21 branch.

22 Q Did you ever again return to the White

- 1 House?
- 2 A After that torn-up note was found.
- 3 Q So, after you returned on the 22nd after
- 4 the search, did you make any contact with any of your
- 5 superiors at the Park Police, or did Captain Hume do
- 6 the contacting?
- 7 A I was answering directly to Captain Hume.
- 8 Q And he would talk to the chief?
- 9 A I don't know who he talked to.
- 10 Q Did you talk to the chief?
- 11 A No, I wouldn't.
- 12 Q Did you ever speak with a Mr. Tom Collier?
- 13 Do you know who he is?
- 14 A Who?
- 15 Q Tom Collier.
- 16 A I may, but I don't recall him right now.
- 17 Q Did you ever speak with the chief of staff
- 18 to Secretary Babbitt of the Interior Department?
- 19 A No, I don't think so.
- 20 Q Are you aware of whether anyone from the
- 21 Park Police attempted to contact anyone from the
- 22 Secretary's office?

- 1 A I don't believe so.
- 2 Q Do you have any knowledge with regard to --
- 3 other than what you've testified to today -- any
- 4 removal of documents from Foster's office after his
- 5 death?
- 6 A No, I don't.
- 7 Q Do you know what happened to the documents
- 8 that were in Foster's office after his death?
- 9 A No.
- 10 Q Did you ever attempt to learn what happened
- 11 to the documents that were in Foster's office after
- 12 his death?
- 13 A No.
- 14 Q You indicated that the next time at which
- 15 you can recall was the discovery of the Foster
- 16 note --
- 17 A Right.
- 18 Q -- is that correct? What do you recall
- 19 about the discovery of the Foster note? Do you
- 20 recall when it happened?
- 21 A I'm not certain of the dates. I would have
- 22 to look at the reports.

1 Q Why don't I give you -- this has been
2 marked 45 and 46 Park Police. Why don't you take a
3 second to review that.

4 (Witness examined the document.)

5 A Okay.

6 Q After reviewing this document, what do you
7 recall about the discovery of the note?

8 A I'm not sure of the exact date. I came to
9 work and then found out that the note had been -- the
10 existence of the note had been related to us, and
11 Detective Megby Wenton had taken possession of it.

12 I then set up the interview with
13 Mr. Neuwirth at the White House on the 29th and
14 talked to him and Mr. Nussbaum at approximately 11:30
15 a.m.

16 Q Did you have any role in collecting the
17 note?

18 A No.

19 Q Between the time that you went to the White
20 House on the 29th and the 22nd, that week, did you do
21 any further activity with regard to the investigation
22 into Foster's death?

1 A I'm sure there was an interview of
2 Mrs. Foster.

3 Q Did you conduct that interview?

4 A Yes. I don't know what date that was on.

5 Q Other than with regard that interview, do
6 you recall doing anything else in connection with
7 this investigation?

8 A I believe so. I couldn't tell you what it
9 was.

10 Q Do you recall any contacts with the Justice
11 Department during that period?

12 A I don't recall. They would have been made
13 through Captain Hume.

14 Q Did you contact the White House at all
15 yourself? Did you contact anyone from the White
16 House between the 22nd and the 29th?

17 A I can't recall.

18 Q Do you know whether Captain Hume contacted
19 anyone at the White House between --

20 A I don't know. I would have to look at the
21 whole case file and check to determine that.

22 (Pause.)

- 1 Q I would like to direct your attention to
2 your note pad, page 129. Let's look first at 128.
3 A Yes.
4 Q This is the final -- on 128 at the top,
5 this is the end of the Gorham interview --
6 A Right.
7 Q -- which occurred on the 22nd. And then
8 the next entry says at the top, "7/29"; is that
9 correct?
10 A Right.
11 Q And then it says "Mr. Nussbaum's office";
12 correct?
13 A Right. This is the interview with Neuwirth
14 and Nussbaum on the 29th.
15 Q Below that it says "7/26. Is that the time
16 of the discovery of the note?
17 A Right.
18 Q And these handwritten notes became the
19 basis for your typed report?
20 A Right.
21 Q And do you believe that your typed report
22 accurately reflects what Mr. Neuwirth told you on --

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- 1 A Neuwirth and Nussbaum, yes.
2 Q Together?
3 A Right.
4 Q Now, just briefly going through your
5 criminal incident record -- and this is page 45.
6 Now, Mr. Neuwirth, according to your report, said
7 that he discovered the note while he was packaging
8 Mr. Foster's personal effects on the 26th.
9 A Right.
10 Q Did you ask any questions with regard to
11 how that process of packaging the personal effects
12 was proceeding?
13 A Yes. That appears on page 46, the second
14 paragraph.
15 Q What did you -- I'm not talking about the
16 actual discovery of the note. Did you ask him any
17 questions about what else he was doing other than --
18 did you ask him if he was also packing the other
19 documents you had seen on the 22nd?
20 A He was packaging personal effects for the
21 Foster family.
22 Q That's what he told you?

1 A That was it.

2 Q Now, in the second paragraph, it says that
3 you posed two questions to Nussbaum and Neuwirth
4 regarding this note. Read that into the record.

5 A "How could this note have avoided detection
6 during the search of Mr. Foster's office by
7 Mr. Nussbaum and other members of the White House
8 counsel's office in our presence on July 22nd, 1993
9 and if the note was found on July 26th, 1993, why
10 were the police not notified of its existence until
11 approximately 8:00 p.m. on July 27th, 1993?"

12 Q Then in the third paragraph of the report,
13 you discuss Mr. Nussbaum's response with regard to
14 the first question. Was Mr. Nussbaum angry that you
15 were questioning why he didn't find the note? Was
16 this a tense conversation?

17 A I was accusing him of lying, basically, and
18 he just said, well, I didn't see it, and that's it.

19 Q Do you believe he was lying?

20 A Yes. I think it would have been impossible
21 for him to miss that many torn scraps of yellow paper
22 out of a briefcase that he was searching on the

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1 22nd.

2 Q What was Mr. Nussbaum's reaction when you
3 said to him that you thought he was lying?

4 A I didn't say I think you are lying. These
5 questions kind of infer that I think you are lying,
6 how could you miss this and why didn't you turn it
7 over sooner. That was the tone of my questions to
8 Mr. Nussbaum.

9 Q Was he still behaving in a condescending
10 manner toward yourself and Captain Hume?

11 A Fairly, yes.

12 Q What was his explanation for why he did not
13 see the scraps of paper?

14 A Basically because he didn't.

15 Q Did he indicate to you whether he believed
16 the scraps of paper were in the briefcase?

17 A He said they must have been stuck in there
18 and that he didn't see them.

19 Q Did you ask him whether the scraps of paper
20 had been placed in the briefcase after his review?

21 A No.

22 Q Let me restate that question.

1 You believed the briefcase was empty;
2 correct?

3 A Yes. Well -- yes and no. Either they were
4 already in there and he said it was empty and he saw
5 them, or it was empty and they were put in there
6 afterwards. Those are the only two possibilities.
7 If they were in there when he was looking in that
8 briefcase, he would have seen them, in my opinion,
9 period.

10 Q Did you discuss with Mr. Nussbaum those two
11 possible scenarios?

12 A No.

13 Q Now, you state in the third paragraph
14 that -- again just to paraphrase to save time -- you
15 discuss how you had been sitting across from him and
16 then why don't you read into the record --
17 "Mr. Nussbaum had reviewed, looked into the
18 briefcase, visually inspected it," and then read in
19 starting here.

20 A "Mr. Nussbaum did not recall doing what I
21 described. Captain Hume stated that he observed
22 Mr. Nussbaum handle the briefcase a third time when

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1 he slid it back towards the wall behind him in order
2 to access the desk file drawer. Mr. Nussbaum agreed
3 with Captain Hume's recollection of sliding the case
4 to the rear."

5 Q Did Mr. Nussbaum -- he denied having looked
6 in the briefcase a second time?

7 A He denies having inspected it and making
8 sure it was empty.

9 Q And you are certain that he did do that?

10 A Yes.

11 Q Did Mr. Nussbaum's voice ever raise during
12 the course of this interview?

13 A No.

14 Q Now, Mr. Neuwirth had been present during
15 the course of the review of the documents in Foster's
16 office on July 22nd.

17 A Right.

18 Q Did he come to Mr. -- did he say anything
19 about Mr. Nussbaum's examination of the briefcase?

20 A No.

21 Q Did you ask him whether he agreed with your
22 rendition of events?

1 A No.

2 Q How did Mr. Neuwirth advise you that he
3 came upon the scraps of paper that we now know to be
4 the note?

5 A I asked him about -- do you want me to read
6 this paragraph in the report?

7 Q You believe this to be an accurate --

8 A It is.

9 Q Is there anything more that the committee
10 should be aware of other than what is stated in that
11 report?

12 A No. It is accurate.

13 Q Now, when you spoke to Mr. Nussbaum and
14 Mr. Neuwirth, the note was already in the possession
15 of the Park Police?

16 A Yes.

17 Q Am I correct that -- were you aware that
18 Detective Megby had obtained the note?

19 A Yes.

20 Q What was the explanation given for the
21 delay between the time the note was found and the
22 time it was turned over to the Park Police?

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1 A Mr. Nussbaum gave me a list of people that
2 were notified about the note that is contained in
3 that report.

4 Q And he indicated to you that he had to
5 discuss the note with the people listed in the report
6 before he could turn it over to the police?

7 A Right.

8 Q Did he advise the Park Police -- what was
9 his explanation for why he did not inform the Park
10 Police of the note sooner?

11 A That all these people had to be notified
12 about it and know about it.

13 Q What was his explanation for why he did not
14 notify the Park Police immediately upon its being
15 found, and then undergo this notification process
16 before it would be turned over?

17 A Because nothing was turned over until
18 Mr. Nussbaum decided it would be, the same as the
19 search of the office. It was nothing new up to that
20 point. He never offered that explanation; that's
21 supposition on my part.

22 Q Let me show you a document that has been

1 marked Park Police 68. This is a copy of the note.

2 A Right.

3 Q Do you know what the Park Police did with
4 the note upon receiving it?

5 A It was together in a clear plastic type
6 envelope, and it was submitted for handwriting
7 analysis.

8 Q Let me ask a question. This document,
9 which we will call Park Police 68, is this the actual
10 size of the note or was the note bigger than this?
11 Is this a Xerox that has been shrunk down?

12 A I think it is the actual size.

13 Q Now, apparently this note was a yellow
14 piece of paper?

15 A Right.

16 Q And it was from a notebook? It had holes
17 in the side of it?

18 A I don't remember holes.

19 Q No?

20 A No. It was more like this.

21 Q You are pointing to a yellow legal pad that
22 is here on the table?

1 A Right. Are you referring to what you think
2 is holes here?

3 Q Yes.

4 A That's the plastic container it was put in.

5 Q Did you ultimately look at the note
6 yourself?

7 A Yes.

8 Q Upon looking at the note, did that confirm
9 your suspicion that it was impossible for
10 Mr. Nussbaum to have missed the scraps of paper?

11 A Yes.

12 Q Why was that?

13 A Because the number of yellow pieces of
14 paper that he would have had to miss, I don't believe
15 you could miss. I forget how many pieces. There
16 were 20-something pieces of yellow paper he would
17 have had to miss in a briefcase that he said was
18 empty.

19 Q Did you ever try to ascertain where the
20 missing piece of paper was?

21 A No.

22 MR. BEN-VENISTE: Off the record.

1 (Discussion off the record.)

2 BY MR. GIUFFRA:

3 Q Did you ever attempt to ascertain whether
4 this note was in fact a two-page document that had
5 been torn and the bottom part of the second page
6 placed --

7 A It doesn't appear to be. It did not appear
8 to be.

9 Q The Park Police then attempted to ascertain
10 whether this was written in Mr. Foster's handwriting;
11 correct?

12 A We had submitted a handwriting analysis.

13 Q Would that have been with the FBI?

14 A The Capitol Police, actually. Later on
15 with the FBI.

16 Q Were you the person that tried to ascertain
17 whether it was Mr. Foster's handwriting, or was
18 someone else in charge of that part of the
19 investigation?

20 A I don't understand.

21 Q Were you the person who turned it over to
22 the --

1 A The Capitol Police expert came over to our
2 office.

3 Q Did there come a time in which you
4 attempted to determine whether there were any
5 fingerprints or palm prints on the note?

6 A Yes. I believe it was fumed. I don't
7 recall the sequence, if it was fumed for that before
8 or after the analysis, for the prints.

9 Q What do you mean by "fume"?

10 A Iodine fuming, so it turns any prints
11 purple. They would turn purple on the paper. It
12 brings out the latent prints for examination, makes
13 them visible.

14 It is getting late.

15 Q Let me show you a document, Park Police
16 60. What is this document?

17 A Mobile crime lab report relating to this
18 death investigation. This has to do with processing
19 of evidence by ID Tech Simonella for items that he
20 had -- a couple items that he had received at the
21 scene, what he did with the victim's clothing.

22 Okay. And then what happened with the

1 note, what he did with the note that we have been
2 speaking of when he received it.

3 Q Did he identify a latent print on the note?

4 MR. BEN-VENISTE: Do you want him to
5 testify about the fingerprints now?

6 THE WITNESS: This does not indicate that
7 it was processed at this point for latent
8 processing.

9 BY MR. GIUFFRA:

10 Q Do you know whether any prints were
11 ultimately ever identified on this note or you just
12 weren't involved?

13 A I can't say. I don't believe there were,
14 but I'm not positive.

15 Q Were you involved in the process by which
16 documents were reviewed in the office of Mr. Foster's
17 personal attorney, Mr. Hamilton? Did you participate
18 in that?

19 A By us --

20 Q The Park Police.

21 A No.

22 Q Do you recall contacting or having -- do

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1 you recall Don Flynn -- do you know Don Flynn of the
2 Secret Service?

3 A I remember meeting him at some point
4 there.

5 Q Do you recall him contacting you or you
6 speaking with him?

7 A Yes. I believe I might have met him the
8 first day. He is just an agent.

9 Q Do you recall anything about the
10 conversation?

11 A No.

12 Q Did you ever have any conversations with a
13 Secret Service uniformed officer by the name of
14 O'Neil?

15 A I don't recall.

16 Q Did you ever have any other conversations
17 other than those that you've testified to today with
18 Secret Service Uniformed Officer Abbott?

19 A Other than what I testified to? No.

20 Q Have you ever had any other conversations
21 since this time with uniformed officer Dennis Martin?

22 A No.

1 Q Have you ever been -- let me show you a
2 document that has been -- this is a document that is
3 marked as 163. It is a Park Police document. It is
4 some telephone message pads. The message pad at the
5 top left says "to Markland." It is a man, Mark
6 Sloan.

7 A This is Charlie Hume's handwriting.

8 Q This is all Charlie Hume's handwriting?

9 A I believe so.

10 Q You don't know who Paul and Don are?

11 A Paul Imbordino and Don -- I don't know the
12 guy's name. I don't know. Paul and Don, I don't
13 know. Dennis Martin. This looks more like
14 scribble.

15 Q Is it your scribble?

16 A No. It's Captain Hume's. My scribble
17 looks much nicer.

18 Q Just for purposes of the record, it is 413
19 on the index. The document is 413.

20 Have you ever spoken or been interviewed by
21 the FBI about the events that we have talked about
22 today?

1 A Have I ever spoken with a member of the
2 FBI? Yes.

3 Q Do you recall on how many occasions?

4 A Several.

5 Q Do you recall the first time you spoke with
6 someone from the FBI about these events?

7 MR. BEN-VENISTE: About an hour ago you
8 said you were almost finished.

9 MR. GIUFFRA: I'm almost done.

10 MR. BEN-VENISTE: Is that any more almost
11 than the last time?

12 MR. GIUFFRA: Within five minutes I will
13 stop.

14 THE WITNESS: Mostly with Scott Salter at
15 the White House. He came to the office a couple of
16 types. We disagreed on how far or how soon we should
17 press Mrs. Foster for an interview.

18 BY MR. GIUFFRA:

19 Q Did you ever meet with any FBI agents in
20 connection with an investigation into the handling of
21 the documents in Mr. Foster's office?

22 A No. The FBI already had knowledge of how

1 that whole thing went. They were with us. There was
2 nothing more to add. I was never questioned by them
3 about it.

4 Q Did you ever speak with anyone by telephone
5 from the FBI about these events that you can recall?

6 A Not that I recall, no.

7 Q Did you ever speak with anyone from the
8 independent counsel's office about these events,
9 Robert Fiske's office or Kenneth Starr's office?

10 A Sure, yes.

11 Q You have?

12 A Yes.

13 Q Has that been on a number of occasions?

14 A Yes.

15 Q Do you recall roughly when those occasions
16 were?

17 A No.

18 Q Would you estimate between five and 10
19 times?

20 A Probably about five times each prosecutor.

21 Q With agents that worked for those
22 prosecutors?

1 A Yes.

2 Q Have you ever testified in a grand jury
3 about this?

4 A Yes.

5 Q I'm going to show you a document received
6 from the FBI. It is a 302 interview dated 8/4/93.
7 The document is FBI 43. If you could just read
8 that.

9 (Witness examined the document.)

10 A I don't remember being interviewed by an
11 agent. I can't imagine --

12 Q Does this recounting of events comport with
13 your own --

14 MR. BEN-VENISTE: You interrupted the
15 witness. He was saying "I can't imagine" and you
16 interrupted.

17 THE WITNESS: I can't imagine talking to
18 somebody on the telephone who I don't know either,
19 whoever they say they are. But does that comply
20 with -- yes, I believe it is the same thing I have
21 been telling you here today about the search of that
22 office and the briefcase.

1 BY MR. GIUFFRA:

2 Q Have you had any discussions with any
3 member of the press with regard to these events?

4 A Yes.

5 Q Can you recall when you spoke to the press?

6 A Earlier this year, after certain members of
7 the press contacted the chief's office and were
8 cleared by Major Hines. They asked me specifically
9 about Mr. Livingstone.

10 Q Do you recall who those reporters were?

11 A There is a published article in the Post.

12 Q So, it was a reporter from the Washington
13 Post?

14 A Yes.

15 Q Was Major Hines present during the
16 interview?

17 A No.

18 Q Is that the only occasion on which you have
19 spoken to the press about these matters?

20 A Only when they were cleared through the
21 chief's office, right. It was only during that one
22 time period, and after that I refused to talk to

1 them.

2 MR. GIUFFRA: Thank you very much for your
3 patience today and everyone else's patience. I am
4 finished.

5 EXAMINATION

6 BY MR. BEN-VENISTE:

7 Q Sergeant Markland, it has been a long day
8 up to now, and I want to let you know, if you feel
9 that you would prefer to quit at this point, I
10 wouldn't fault you. But I would like to go for at
11 least another hour. I think you have overheard the
12 conversations among counsel where another obligation
13 which we have this evening, which is impossible to
14 move without inconveniencing my colleague, is going
15 to take precedence over concluding this
16 investigation -- this interrogation this evening.

17 So that we will resume at 2:30 on Friday,
18 in accordance with our prior discussion.

19 A Yes.

20 Q That's acceptable to you, I take it?

21 A That's fine.

22 Q I'm going to ask you a number of questions,

1 some of which have been developed to some extent by
2 Mr. Giuffra. My objective is to try to look at these
3 facts in the most objective way possible and to see
4 whether there is additional information that may be
5 appropriate to our inquiry to bring out. Let me
6 start with the last issue that Mr. Giuffra raised,
7 which was your contact with the press.

8 Could you tell me how that came about?

9 A I started receiving telephone calls at my
10 work site, and I advised the individuals they would
11 have to go through the chief's office to get
12 statements from me. Within a couple of minutes after
13 hanging up with them, I would get a call from Major
14 Hines advising me it was okay to talk.

15 Q Was that on each occasion with respect to
16 each reporter, or was that a general okay, you can
17 talk?

18 A No. It was on each occasion. Well,
19 specific to each reporter.

20 Q And on each occasion, Major Hines said it
21 would be all right for you to comment to the press?

22 A Yes.

1 Q What did you say to Major Hines in terms of
2 what the scope of your authority to speak to the
3 press would be? In other words, was it limited to a
4 particular issue?

5 A I would advise him on what they had asked
6 me to comment on, yes.

7 Q When do you recall that this contact with
8 the press began?

9 A I believe it was March or April of this
10 year.

11 Q And approximately how many different
12 reporters did you speak with?

13 A Only two.

14 Q Do you remember who they were?

15 A One was with The Post. It was a published
16 article. Another was with the Associated Press.
17 Offhand I don't know. I have that information,
18 though, somewhere.

19 Q Where would you have that?

20 A Probably back at my desk.

21 Q If you could remember to bring that in
22 Friday, that might be helpful.

1 What do you recall telling Major Hines the
2 subject of the inquiry would be in getting the
3 clearance on?

4 A That they were interested in any
5 information on Livingstone taking documents from
6 Foster's office.

7 Q And did Major Hines, to your knowledge,
8 have to check with anyone or did he have the
9 authority to clear you to speak on that subject?

10 A He has that authority.

11 Q And you got immediate clearance to speak on
12 that subject?

13 A It took about two minutes after I hung up
14 with a reporter for Major Hines to call me and advise
15 me I could talk to him.

16 Q Was it the case that you only got calls
17 from two reporters, or were there others for whom
18 clearance was not given?

19 A There were others after that, but I told
20 them I -- I didn't advise them to contact the chief's
21 office. I advised them I wasn't going to make any
22 more statements.

1 Q Your career as a spokesperson had ended by
2 that point?

3 A Yes.

4 Q You got tired of answering questions from
5 the press, I take it?

6 A Yes.

7 Q I take it you had an interest then in
8 looking at what was printed in the newspaper from the
9 standpoint of whether you were accurately quoted?

10 A Yes.

11 Q Was there anything about what was printed
12 that in your view was inaccurate?

13 A The quotes -- whatever was in quotes that I
14 said was accurate. Some of it, the supposition
15 slants that the article had, had nothing to do with
16 what I told the reporters.

17 Q So you thought there was some
18 editorializing or slanting in the story?

19 A Yes.

20 Q But that the quotes attributed to you were
21 accurate?

22 A Were accurate, right.

1 Q So, it wasn't the accuracy of the reporting
2 that tired you of talking to the press; it was the
3 slanting of the story? Or you just didn't want to
4 take --

5 A The slanting of the story and the increased
6 volume of calls and reporters calling, Money magazine
7 calling. One reporter was especially interested in
8 getting Abbott's name from me, which I wouldn't give
9 them.

10 Q Now, had Abbott in his conversation with
11 you asked you to keep his name confidential?

12 A No.

13 Q And you simply took it upon yourself as a
14 matter of your own discretion not to mention his
15 name?

16 A Right.

17 Q Is it fair to say that the thing that
18 annoyed you the most was that you did not -- you as a
19 Park Police officer and investigator did not have
20 control over the situation at the White House in
21 terms of the review of documents and the interview of
22 witnesses?

1 A Yes. I had no control at all.

2 Q And in a normal situation in terms of your
3 law enforcement experience, it would be the case,
4 would it not, that if you were executing a search, it
5 would be law enforcement officers that determined the
6 scope of the search and the length of the time that
7 you took and the time that the searched area would be
8 secured in the sense of other people not being
9 permitted to enter. Is that fair to say?

10 A Once permitted to search, conduct a legal
11 search and/or at least solicit the cooperation of the
12 family or business partner.

13 Q And from time to time, I take it you have
14 either conducted searches incident to a search
15 warrant or incident to a lawful arrest?

16 A Or incident to consent, yes.

17 Q And under those circumstances, it is the
18 police who have control over the area that is to be
19 searched, both from the standpoint of the integrity
20 of the search and the safety of the officers
21 involved?

22 A Absolutely.

1 Q Now, in the experience that you mentioned
2 previously, there were four death investigations that
3 you conducted prior to the time of your assignment to
4 the Foster investigation; is that correct?

5 A Yes.

6 Q And I didn't understand whether you meant
7 to convey that you were in charge of those four
8 investigations or that you were a significant
9 participant in those four investigations.

10 A The murder before this that we spoke of, I
11 was one of two detectives who was assigned full time
12 strictly to that investigation until it was solved.
13 Before that, I was involved in three other homicide
14 investigations that took place during the drug
15 conspiracies.

16 I had a significant role in those but I was
17 not in charge of the investigation of the murders
18 themselves.

19 Q Were those joint investigations with any
20 other agencies or were those exclusively Park Police
21 investigations?

22 A One of them was a joint investigation for

1 murders in Prince George's County that were
2 prosecuted through the state. Although the drug
3 organization was a conspiracy being investigated by
4 the United States Park Police.

5 Q And there was homicide involved in the
6 course of that investigation?

7 A Right.

8 Q You had an ongoing investigation focusing
9 on drugs and then a homicide occurred, you had some
10 background information that was important?

11 A Right. We uncovered witnesses to the
12 homicide.

13 Q I think you mentioned -- the case that was
14 prosecuted in Baltimore where you were one of the two
15 principal investigators, was that drug related?

16 A No. That was a straight-up murder for
17 robbery.

18 Q It turned out to be a felony murder?

19 A Yes.

20 Q A homicide in the course of a robbery?

21 A No. Actually, it was a planned murder on
22 the part of one of the participants. The motive was

1 robbery.

2 Q The motive was robbery?

3 A Right.

4 Q But it was a planned murder as well?

5 A In other words, the ultimate goal was for
6 the vehicle of the victim, but the murder itself was
7 planned also.

8 Q Now, I take it in none of the death
9 investigations that you have mentioned previously was
10 the victim an attorney?

11 A That's correct.

12 Q I think you mentioned that from your
13 perspective, if you had your druthers in this
14 situation, you would have had all of the material in
15 Foster's office in the trunk of your car and you
16 wouldn't have had to put up with lawyers whispering
17 to one another about what privilege might come into
18 play?

19 A Absolutely.

20 Q I take it you have had contact with lawyers
21 over the course of your law enforcement career?

22 A Yes.

1 Q And have not always regarded them as being
2 the most helpful people in the course of your
3 official duties; is that a fair statement?

4 A Well, it depends on which side they were
5 on.

6 Q If they were on your side, you thought they
7 might be more helpful but possibly not so, but
8 usually more helpful than the attorneys for the other
9 side?

10 A Yes, yes.

11 Q And you know that you have your job to do
12 and you were not the type of person who likes to be
13 diverted or slowed down in that mission, if I am not
14 mistaken?

15 A Not if I can help it.

16 Q Now, on the subject of your assignment on
17 the 21st to this investigation, you indicated that in
18 addition to being the only detective who was
19 available to go over with Mr. Hume, you also had some
20 familiarity with the White House by reason of your
21 prior employment with the Secret Service.

22 A Right.

1 Q How much of that time with the Secret
2 Service had been actually at the White House?

3 A The whole time after basic training. It
4 was a total of 22 months with the department. It was
5 all at the White House.

6 Q So, basic was what? Three months?

7 A Eight weeks and then special -- a total of
8 about three months.

9 Q And then the balance of the time, which is
10 about a year and a half, let's say, you were over at
11 the White House? That was your first tour?

12 A Right.

13 Q And I think you mentioned that the type of
14 work you were assigned to do did not match up with
15 your expectations about what the job would entail.
16 Could you elaborate on that a little?

17 A When they recruit people for that job, at
18 least at the time I was with the executive protective
19 service, they lead you to believe that you are going
20 to be involved in a lot of police work and you have
21 the jurisdiction to be involved in the police work.
22 As soon as I hit specialized training for that

1 department and the their solicitor came over and
2 explained our jurisdiction, I decided to start
3 actively pursuing a career elsewhere. It just took
4 me 22 months to get out.

5 It is protection, standing around. It is
6 not police work as I was led to believe.

7 Q It is a lot of standing around and sort of
8 dead time where you are by yourself just guarding a
9 door or something like that?

10 A Right.

11 Q In terms of physical barrier protection and
12 access protection and whatnot?

13 A Right.

14 Q And you were more of an activist and had a
15 more active criminal investigation career in mind
16 when you went into it, I take it?

17 A Right, right.

18 Q In terms of the people with whom you came
19 in contact with when you were a uniformed Secret
20 Service officer, did you find that you sometimes were
21 treated in a way that was not what you would have
22 expected, simply from the standpoint of the possible

1 egos that might have been around at that time?

2 A Well, in fact, a couple occasions I was
3 pleasantly surprised. I met Hubert Humphrey back
4 then and I didn't expect to be treated any
5 differently than I was for the most part. Just the
6 job itself.

7 Q You felt you were treated well but the job
8 itself was not your cup of tea?

9 A That's correct.

10 Q Did you ever have the assignment to do
11 anything with the burn bag collection while you were
12 over there?

13 A No.

14 Q What was your understanding about how that
15 worked?

16 A It was a more senior officer job that would
17 go around to the different sites outside the offices
18 and collect the shredded paper that was classified
19 material and take it away to be destroyed.

20 Q When you say "more senior," you mean more
21 senior to you?

22 A Yes.

1 Q You were a rookie. So the burn bag detail
2 wasn't something that was on your list of duties at
3 that point?

4 A No. I strictly rotated fixed posts, three
5 shifts. That's about all I did.

6 Q When you trained for the Park Police, did
7 you go through another training period?

8 A Yes. We did basic police school, which was
9 12 weeks for Park Police, plus another -- it was a
10 total of like 16-1/2 weeks at the Federal Law
11 Enforcement Training Center in Georgia.

12 Q In the course of that were you instructed
13 about writing up reports and note-taking and the
14 like?

15 A Yes.

16 Q In terms of what the Park Police expected?

17 A Yes. You become familiar with all the Park
18 Police reports by the time you hit specialized
19 training.

20 Q Every agency does it somewhat differently,
21 I take it?

22 A Right.

1 Q But, from your standpoint, the purpose of
2 maintaining more or less a chronological notebook
3 during your investigation would be to record anything
4 of importance to your investigation?

5 A Right, so that it can be put -- before it
6 can be put on an official report.

7 Q Now, in the report that Mr. Giuffra showed
8 to you earlier, the typed report regarding your
9 sitting in the lobby the first day and then meeting
10 with the FBI agents and the like, do you remember
11 when you typed that report, because we couldn't see
12 on the document itself when it was prepared?

13 A More than likely, because of the interest
14 in any reports being generated by the chief's office,
15 they were all done on the same day.

16 Q You mean they were done each day after
17 the --

18 A If not that day, then probably immediately
19 the next.

20 Q Do you have a recollection of what happened
21 that evening on the 21st as to whether you went back
22 to your office or whether you went somewhere else

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1 after you left the White House?

2 A I know we went directly back to our office
3 after that, after we left the White House complex.

4 Q I'm sorry? After you left the White
5 House --

6 A We went directly back to our office.

7 Q Do you think you typed your notes up that
8 night?

9 A Most likely.

10 Q When we look at -- I would like you to look
11 at your notes with respect to -- that would be 118 --
12 with respect to the inception of the investigation.

13 Give us just a minute.

14 (Pause.)

15 The record should show that I have shown
16 Sergeant Markland Exhibit 118.

17 Do you know at what point you wrote the
18 notes about Mr. Hamilton being a family attorney?

19 A I believe it was on the morning of the
20 21st. And I believe it was before we responded to
21 the White House.

22 Q So that morning, Captain Hume would have

1 provided you that information before you left?

2 A Right.

3 Q What kind of a briefing did he give you
4 that morning?

5 A Very -- very brief.

6 Q Did you ride together in the car?

7 A Yes.

8 Q Was that basically the time that he gave
9 you the briefing, while you were in the car?

10 A No. It was in the morning when I first
11 came in. It took us a couple hours before we went to
12 the White House. He was making phone calls to
13 arrange that.

14 Q Do you remember whether you knew that
15 morning pretty much the nuts and bolts of what the
16 Park Police investigators had determined in the
17 previous 12 hours or so?

18 A Yes, but more like an outline version of a
19 body was found, the White House was notified, the
20 position of the body, very sketchy.

21 Q But in terms of what Captain Hume told you,
22 was it clear to you at that point that you were

1 investigating a likely suicide?

2 A Possible is the more proper word. It
3 wasn't even thought of as likely from that point,
4 just from the position of the body and the gun.

5 Q How about the wound itself?

6 A Yes, the wound, everything that we knew and
7 that -- it was possible.

8 Q Everything that you knew was consistent
9 with suicide?

10 A Right. It was not inconsistent with
11 suicide.

12 Q Did Captain Hume, at the point you were
13 being briefed and on the way to the White House,
14 indicate to you that he expected any problems?

15 A No.

16 Q So, the first note that you wrote on your
17 pad once you were at the White House had to do with
18 the information that you received from Abbott; is
19 that correct?

20 A Yes, correct, that's correct.

21 Q And I think it was your testimony that you
22 spoke with Abbott privately and away from Captain

1 Hume and the two FBI agents. Do you remember which
2 two FBI agents those were?

3 A I believe that Salter and -- I forget his
4 name -- would have been there at that time.

5 Q The same two who were partners throughout
6 this?

7 A I believe so.

8 Q Would that have been Condon? Does that
9 help your recollection?

10 A Dennis Condon?

11 Q Let's see if I can -- Danna, D-a-n-n-a. I
12 have Danna, Condon and Salter as the three FBI
13 agents. Were there three or two?

14 A It was only two. It is possible that early
15 on that day there was one and he was switched with
16 somebody else.

17 Q Offhand, you don't remember the name of the
18 other one?

19 A No.

20 Q Salter you remember because I think earlier
21 you testified that you disagreed with him in terms of
22 the appropriate time to contact Mrs. Foster to

1 interview her.

2 A Right. He stayed pretty much with me and I
3 had most of my dealings with him.

4 Q With respect to that disagreement, what was
5 the nature of that?

6 A Oh, that I had advised the family attorneys
7 that I wanted to speak to Mrs. Foster and come out to
8 the house again and interview her. He was starting
9 to say no, you can't, blah, blah, blah. At that time
10 I told him to let her know that we wanted to
11 interview her. Salter wanted to just press and go
12 right out, and I wanted to give her a little bit more
13 time before she talked to us.

14 Q When was it that you were suggesting that
15 the interview take place? Do you remember?

16 A It was after the White House --

17 Q The document review?

18 A Right.

19 Q But it was how far out from the suicide
20 would you say in days?

21 A Possibly the day after the office search.

22 Q And Salter took the position that you

1 should give it a little more time. When was the
2 funeral?

3 A No. Actually he wanted to be more forceful
4 and demanding and interview right away her. Actually
5 she had just gone out to Arkansas for the funeral.
6 In fact, they were denying us access to Mrs. Foster
7 until I told them that we would fly out the
8 Arkansas. The next thing you know she was back in
9 town at her lawyer's office.

10 Q So, you interviewed her following the
11 funeral in her lawyer's office?

12 A Right.

13 Q Now, you said that you would have been very
14 interested to review a diary if such had been found.
15 Why would that have been?

16 A Well, someone who keeps a diary usually is
17 very open about not only what is going on but how
18 they feel about things.

19 Q So, you felt it would have shed
20 considerable light on the possible motivation of
21 Mr. Foster had you had the --

22 A Or at least his mind-set one way or the

1 other, yes.

2 Q But, to the best of your knowledge, there
3 was no diary?

4 A No.

5 Q Would you have expected someone to bring
6 that to your attention if one had been found?

7 A Yes.

8 Q And why was that in connection with your
9 role in the investigation?

10 A In regards to other officers?

11 Q Yes, other officers or agencies or, indeed,
12 the White House.

13 A I'm supposed to know what is going on in an
14 investigation.

15 Q That was clear?

16 A Yes.

17 Q When you finally saw the note, what was
18 your view in terms of the investigation of this case,
19 the top line of the investigation and the bottom line
20 as well, I guess?

21 A When I learned of that note and the
22 circumstances under which it was supposedly

1 discovered, I didn't buy it then. I felt it was
2 something that the counsel's office had all along.

3 Q Perhaps you haven't gotten my question. My
4 question was from your investigation when I said "top
5 line" and "bottom line," the investigation of the
6 death.

7 A Okay.

8 Q Put aside your views for a moment, if you
9 can, on the circumstances of the discovery of the
10 note and focus on the substance of the note as it
11 related to your investigation.

12 A It has been a while since I have seen that
13 note. As I recall, though, it indicated -- for
14 somebody to write down all those type things, things
15 at least that concerned him and either their
16 contemplating drafting a bigger document or at least
17 it gave me the first insight into any kind of
18 troubles really that Mr. Foster had.

19 Q Was that really the first insight you had?

20 A Besides finding the phone numbers for the
21 psychiatrist and later talking to Mrs. Foster.

22 Q Did you talk to Mrs. Foster before or after

1 the note was found?

2 A I believe it was after. I honestly don't
3 recall right now.

4 Q So, did the discovery of the note, putting
5 aside the circumstances of it, make it more likely in
6 your mind that this was a suicide?

7 A Yes.

8 Q And I take it you felt that if you had seen
9 this note at an earlier point, it would have taken a
10 lot of the question marks out of what was going on?

11 A With that note early on, I probably -- I
12 would have been interviewing a lot of people to get
13 their interpretation of exactly what all these
14 notations referred to. They weren't, apparently, all
15 that clear to me, well, why this, why that, the FBI
16 lied.

17 Q The fact that he felt the FBI lied, the
18 fact that he was being criticized by the editorial
19 people at The Wall Street Journal, the business about
20 the ushers' office and the travel office, this was
21 all of a piece, was it not, that he felt that things
22 in Washington were terribly different than what he

1 was used to and that people were being very unfair
2 toward him?

3 A Well, another thing that interested me is
4 somebody that writes down statements like that. I
5 don't go home and write down every day the dog chewed
6 the rug up, I hate my boss, I should be captain.

7 Q And this would make it more likely that he
8 was seriously disturbed?

9 A At least it gives a point to go from, yes.

10 Q Now, the fact is that when you were using
11 the analogy of Mr. Giuffra's sudden demise and what
12 you would do as an investigator if, God forbid, such
13 a thing should happen, I think you said that your
14 druthers would be to seal the room, seal this
15 building, seal the store that he went to last and
16 seal his house.

17 A You want as much as you can get.

18 Q But you recognize that in the real world,
19 there are limitations to that? Surely you understand
20 that whatever people outside of Washington and the
21 Beltway may feel, that it seems unlikely that the
22 Congress would be sealed and shut down from doing

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1 business because one of its brightest lights died
2 under suspicious circumstances?

3 A Yes, I realize that.

4 MR. GIUFFRA: Conspiracy buffs would have a
5 field day.

6 BY MR. BEN-VENISTE:

7 Q And similarly, you recognize that while law
8 enforcement may have legitimate interests, they have
9 to be balanced against other interests such as, I
10 think you mentioned the Secret Service in connection
11 with the place the President lives and works?

12 A Right.

13 Q Now, in your training as an investigator,
14 did you have a manual to review? Does the Park
15 Police have an investigative manual?

16 A No. I'm not sure -- we had general orders,
17 general rules on how to do things. There were basic
18 field pocket manuals that are given out to officers
19 in rookie school.

20 Q What is a pocket manual?

21 A Like quickly tell things on search and
22 seizure, basically a reference guide. Other than

1 that, it is just experience and training, working
2 with the U.S. Attorney's office.

3 Q Are you aware of the existence of any sort
4 of investigative manual other than this rookie's
5 pocket manual that is published by the Park Police
6 for reference?

7 A I believe there was one developed after
8 this time period.

9 Q After July of '93?

10 A I believe so, yes. It started being worked
11 on by, I think, Detective Rayfield and some other
12 detective before then. But it was not in existence
13 at this time.

14 Q Have you had occasion to review that manual
15 since it has been published?

16 A No. I have been out of criminal
17 investigation since August of '93.

18 Q So, basically in your present duties on the
19 SWAT team, you are really not that concerned with the
20 investigative procedures that might be listed in the
21 manual; you were more of a quick response --

22 A Of course I'm concerned. But no, that is

1 more of an in-house, I think, guide for detectives to
2 review. It is not published forcewide for
3 distribution, that type of manual.

4 Q So you haven't seen it?

5 A No, I haven't.

6 Q Let me ask just generally. I think you
7 said that you were involved in, tangentially, with
8 one suicide investigation? If I have misstated my
9 recollection --

10 A I have been on the scene of suicides
11 before, but investigations, none that I investigated
12 before.

13 Q Are you aware of any circumstance where in
14 a suicide, as a routine matter, the place of business
15 of the decedent was sealed for any period of time if
16 that was not the site of the suicide?

17 A No. However, in every one that I have
18 heard of, usually you get cooperation from business
19 partners and/or family. And, if nothing else, people
20 do not want to accept the fact that there was a
21 suicide. They would much rather have the person
22 murdered out from under them than have committed

1 suicide. Believe it or not. They can buy that a
2 whole lot better than suicide.

3 Q But this is on the basis of your discussing
4 cases with other individuals in law enforcement?

5 A Yes.

6 Q From your own experience in the suicide
7 that you did investigate or you were on the scene of,
8 you had no reason to believe that the place of
9 business of the individual had been sealed?

10 A No.

11 Q And would it be fair to say that in a case
12 of a likely homicide as compared with a likely
13 suicide, one would expect a somewhat more aggressive
14 investigation on the part of the investigative
15 authorities in terms of the preservation of evidence?

16 A I'm trying to relate this to the White
17 House, your statement.

18 Q Look at it from the standpoint --

19 A It still would have been a tough call.

20 Q -- of an everyday situation, and we will
21 get to the White House in a little bit.

22 Clearly it is not a matter of mathematical

1 certainty that we are talking about but, rather, in
2 practical everyday experience that where you have a
3 homicide on your hands, where you are looking to
4 catch the perpetrator, you would more likely be more
5 aggressive, would you not, than where there is a
6 likely suicide in terms of attempting to secure and
7 preserve evidence?

8 A That's a fair statement. If somebody
9 shot -- it is a likely homicide and you are going to
10 the house to search somebody's house, you are not
11 going to ask a whole lot of permission if somebody
12 says no once. Every case is different.

13 Q In a normal situation, by which I mean
14 somebody who is thought associated with a highly
15 sensitive occupation, where there is a suicide that
16 is likely, are you aware of any instance where an
17 individual's home was sealed off for purposes of
18 trying to establish what evidence might be there?

19 A I'm aware of instances where homes and
20 businesses were searched, but never became necessary
21 to go any further than just ask to do it in those
22 cases.

1 Q Under those circumstances, you would say,
2 look, we are trying to find anything that will help
3 us to determine the cause of death and will you
4 cooperate, and the people, to the best of your
5 knowledge -- and this is hearsay on your part -- the
6 people were cooperative?

7 A Yes.

8 Q Were you ever in a situation where a
9 psychiatrist or a lawyer was the subject of a
10 questionable death investigation --

11 A No.

12 Q -- where the files of other people might be
13 involved?

14 A No.

15 Q Do you recognize, as you sit here today,
16 that under circumstances where third parties' rights
17 of privacy may be involved, that there may be a duty
18 or legal interest in preserving the confidences that
19 those third parties may have imparted to the
20 decedent?

21 A Do I realize that? Yes.

22 Q So if a psychiatrist takes his life or in a

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1 suspected suicide of a psychiatrist, one would not
2 expect that all of the files of his patients would be
3 reviewed?

4 A No.

5 Q And similarly, with a lawyer, one would not
6 expect that confidences imparted by clients of a
7 lawyer which are subject to certain privileges would
8 be reviewed; is that a fair statement?

9 A That's a fair statement.

10 Q What really ticked you off, if I can try to
11 summarize it, was that you expected to get more
12 cooperation rather than someone standing on technical
13 legal argument --

14 A Yes.

15 Q -- in connection with the White House
16 review?

17 A I knew there would be a lot of problems,
18 especially given that it was counsel's office. But I
19 fully expected that the office would have been
20 preserved and expected that the government and the
21 counsel's office would be able to work out a system
22 whereby we could both accomplish our goals.

1 Q From time to time in --

2 A The government and the government, I
3 guess.

4 Q Same team was your view of the situation?

5 A I thought.

6 Q With respect to the notes that you took,
7 you would not take the position that it would be
8 impossible or unlikely for you to make a mistake from
9 time to time in transcribing your notes or in
10 interpreting notes that you had taken earlier?

11 A It is always possible that I could make a
12 mistake.

13 Q You are not perfect?

14 A Absolutely not.

15 Q Let me ask you --

16 MR. GIUFFRA: Do you have more to say?

17 THE WITNESS: I just haven't discovered
18 anything in those reports that I didn't review before
19 I signed.

20 BY MR. BEN-VENISTE:

21 Q For example, when you said in your notes
22 with respect to Mr. Nussbaum's initial conversation

1 with you about his entry into the office -- I would
2 like you to take a look at Exhibit 122 again so that
3 you have it in front of you.

4 A Okay.

5 Q That note -- have you had a chance to
6 review it?

7 A Yes.

8 Q Those are your handwritten notes?

9 A Right.

10 Q Would you read the reference to what
11 Mr. Nussbaum said about the 2200 to 2400?

12 A I wrote down "Mr. Nussbaum entered 2200 to
13 2400, 7/20/93."

14 Q Now, is it possible that when you
15 interviewed Mr. Nussbaum that Mr. Nussbaum was
16 telling you the time that he was in the counsel's
17 suite of offices that evening as opposed to limiting
18 himself to the time that he was in Mr. Foster's
19 private office?

20 A I believe he stated that he was up there in
21 Foster's office at that time with Thomasson and
22 Williams. But it is not unreasonable to think that

1 he wasn't in Foster's office that entire time,
2 because it is all the same general -- step out
3 Foster's door and you are in Nussbaum's office.

4 Q So that by saying that from 2200 to 2400
5 hours he was in the suite, and if I were to suggest
6 to you that there is some evidence that he spoke on
7 the telephone from his private office to members of
8 his staff for well over an hour, would you disagree
9 with that interpretation of the 2200 to 2400 hour?

10 A Would I believe he was on the phone in his
11 office for an hour if you had evidence that suggests
12 that?

13 Q If I were to suggest that he was on the
14 phone during that period for over an hour, would that
15 comport with your understanding of Mr. Nussbaum
16 saying he was in the suite between 10:00 p.m. and
17 midnight, as compared with being in Mr. Foster's
18 private office during that entire period of time?

19 A It would be plausible to me, yes, if that's
20 what you asked me.

21 Q In other words --

22 A I may have asked him were you in Foster's

1 office and he may have been referring to the entire
2 time that he was up there.

3 Q Like the time that he entered and the time
4 he left the suite that evening to depart the White
5 House?

6 A It is possible. He may have been referring
7 to the counsel's office itself.

8 Q Now, with respect to your note on the
9 information you received from Mr. Livingstone, 118 --
10 do you have that? Let me show you Exhibit 118,
11 which, if I am not mistaken, contains your notation
12 of your conversation with Officer Abbott of the
13 uniformed Secret Service division.

14 A Right.

15 Q Did you -- do you recall making that note
16 while you were in the lobby of the west wing or
17 making it later?

18 A Well, this note was made in bits and
19 pieces.

20 Q Right. You did testify you added certain
21 things later.

22 A Yes. Basically --

1 Q Let's talk about the first notation that
2 you made. Can you say which was the first notation?

3 A One of the first things I wrote was "Craig
4 Livingstone" and then "came downstairs." Then I
5 added the bottom line, actually, with "Officer Bruce
6 Abbott observed a box" approximately the same time I
7 put "records" in there.

8 Q So that was the first entry?

9 A Basically, yes.

10 Q And then the second entry --

11 A Then I was asking -- well, I asked him and
12 he put "White House security staff," and then I found
13 out at approximately -- I put "responded to Fairfax
14 hospital, ID body."

15 Q Those two notations were written later, but
16 at the same time of each other?

17 A At the same general time frame. I was
18 asking around, like who is this.

19 Q Do you remember when Abbott spoke to you
20 privately whether you took your note pad out right
21 away and made the first notation, or was that at some
22 point later?

1 A Well, it was right away, because
2 Livingstone, his name, I wasn't familiar with it. I
3 wanted to get that right. I also got his name and
4 asked him his first name off his name tag. I didn't
5 know him either.

6 Q So, while you were standing there, you made
7 that note, talking to Abbott?

8 A Yes. As far as the names at least, and
9 Abbott's name, because I wasn't familiar with either
10 one of those names.

11 Q So, Livingstone and Abbott. How about the
12 "came downstairs"?

13 A They were all fairly contemporaneous to
14 each other.

15 MR. BEN-VENISTE: Do you need to make a
16 call?

17 THE WITNESS: Yes.

18 (Recess.)

19 BY MR. BEN-VENISTE:

20 Q So, you remember writing "Livingstone" and
21 then "(Bruce Abbott observed)"?

22 A Right.

1 Q Does that lead you to believe you probably
2 wrote "came downstairs with box" and then "(Bruce
3 Abbott observed)" all at the same time?

4 A I know that with the officer -- and in the
5 parenthesis with box I wrote before I got Abbott's
6 name and then filled in Abbott. It was all around
7 the same time.

8 Q So you wrote "came downstairs with box" and
9 then "(Officer Bruce Abbott observed)"?

10 A Right, and then I went back and got his
11 name.

12 Q Were you standing up or sitting down when
13 you wrote the note?

14 A Standing up.

15 Q And is there anything inaccurate about what
16 is reflected in your note?

17 A No.

18 Q Now, while you spent quite a bit of time
19 familiarizing yourself with that particular lobby,
20 which I take from your prior testimony -- did you
21 happen to notice where the stairs were leading from
22 upstairs?

1 A They would have had to have been past the
2 elevator. The elevator is off to the right as you
3 face out, which is north of that desk. I never took
4 the stairs.

5 Q The stairs were in clear view of the desk.
6 Were you able to see that?

7 A I'm not sure about the stairs. When I'm
8 writing "came downstairs here" I'm just writing came
9 down a floor. It seemed like everybody would use the
10 elevator.

11 Q When you wrote "came downstairs" in your
12 notes, it appears that you were saying that someone
13 used the stairs.

14 A Actually used the stairs.

15 Q That is clear from your notes if you were
16 just reading the notes. It indicates that someone
17 came down the stairs.

18 A In my mind, I'm thinking just came
19 downstairs. Maybe it is an expression I use, but it
20 is down a floor, downstairs, not necessarily use the
21 stairs.

22 Q When you use it with two words "down

1 stairs," I think it would imply to most people that
2 the stairs were used.

3 Did Officer Abbott indicate one way or
4 another to you how --

5 A I didn't question --

6 Q Let me finish -- how Mr. Livingstone came
7 from an upper floor to a lower floor?

8 A No.

9 Q It is clear to you that Officer Abbott did
10 not mention anything about a briefcase in connection
11 with Mr. Livingstone's -- his observation of
12 Mr. Livingstone that morning?

13 A No. He said carrying a box.

14 Q And was it clear that he said to you that
15 he was carrying a box in the singular as opposed to
16 more than one box?

17 A A box.

18 Q Clearly?

19 A Yes.

20 Q Now, when you saw Mr. Livingstone later,
21 had you by that time asked anyone about this position
22 of White House security?

1 A I'm not sure if it was before or after we
2 went to eat lunch. That's when I brought it up to
3 the agents. That's when I asked the Secret Service
4 agent who the head of White House security was. I'm
5 not sure of the time frame.

6 Q And it is quite clear to you that Officer
7 Abbott never said anything about anyone else in the
8 company of Mr. Livingstone?

9 A He just mentioned Livingstone
10 specifically.

11 Q If he had mentioned anyone else, that would
12 have given you the motivation to interview that other
13 person, I take it?

14 A Yes.

15 Q When you saw Mr. Livingstone -- when
16 Officer Abbott gave you the information in your
17 private conversation that you have testified about, I
18 believe you said that Mr. Abbott placed the time of
19 his observation of Mr. Livingstone as being early
20 that morning?

21 A Yes. He said, right, early. And just from
22 the shifts as I knew them, I supposed that it was

1 after 7:00.

2 Q And your conversation with Abbott occurred
3 at about what time, would you estimate?

4 A We had just gotten there. I think it was
5 around 9:00 or 10:00. We hadn't been there very
6 long.

7 Q Did you come as a group, you plus the FBI,
8 or did the FBI join you?

9 A We didn't come as a group. We met at the
10 White House. Exactly what time --

11 Q Did you meet in the ground floor lobby or
12 did you meet elsewhere and then come over to the west
13 wing?

14 A I'm not sure of the sequence. I know one
15 morning we met at the southwest gate. I can't
16 remember if that was the first or second morning.

17 Q Were the FBI agents still around in your
18 vicinity when you questioned Mr. Livingstone?

19 A I don't recall. I know that they didn't go
20 back over to the agents office with us that day when
21 Hume went to make the phone calls and everything.
22 I'm really not sure.

1 Q But how long after Officer Abbott had
2 provided you this information do you recollect
3 confronting Livingstone?

4 A I have gotten confused on the time on that
5 before. I think in the notes there is indication
6 that it was probably after lunch on that day.

7 Q Which notes? Let me see if I can help
8 you --

9 A It would be the page right before or after
10 where I had written about Livingstone.

11 Q Your handwritten notes?

12 A Right.

13 Q The page that you have written about him,
14 118, appears to be --

15 A Not on 118 but where I wrote that he was
16 not in the office.

17 Q Give me a second. I will try to find that
18 for you. When you say you got confused about the
19 timing before on that, where was that? Here this
20 morning?

21 A No, no. At one of the special
22 prosecutor's.

1 Q Were they able to help you straighten it
2 out?

3 A Not totally to everyone's satisfaction,
4 no. It is very hard to nail that down.

5 Q As to when it was that you spoke with
6 Mr. Livingstone?

7 A Correct.

8 Q I can't seem to locate the document at the
9 moment. What is your best recollection as you sit
10 here?

11 A I thought it was early in the morning at
12 first, and it is possible that it was after lunch on
13 that day, which would make it quite a bit later.

14 Q What made you later think that it was after
15 lunch?

16 A Because of a notation I had in the notes
17 about when I talked to someone else. I really can't
18 be certain.

19 Q So, as you sit here now, you have no
20 distinct recollection of what time it was?

21 A No.

22 Q Your earlier recollection was it was

1 sometime in the morning, but a review of your notes
2 in context makes you think that maybe it was in fact
3 after lunch?

4 A It left me confused as to the time. I
5 remember we had been standing in a lobby and getting
6 nothing accomplished, and then Livingstone went by
7 and I was told it was him. That's when I stopped
8 him. Initially I thought it was earlier that
9 morning.

10 Q So, it would have been a time when Officer
11 Abbott was still on duty?

12 A Right.

13 Q Do you know what time he got off?

14 A I'm assuming 3:00.

15 Q So, it would have been before 3:00, since
16 it was Officer Abbott who pointed him out to you?

17 A Right.

18 Q You are clear about that, that it was
19 Abbott who pointed out Livingstone to you?

20 A The best of my recollection, yes.

21 Q So that means that assuming Officer Abbott
22 got off his shift at 3:00, that is clearly the cutoff

1 point?

2 A That would be the cutoff, yes.

3 Q I think you testified that Mr. Livingstone
4 was somewhat emotional and that you had a clear
5 impression that he had been crying.

6 A Yes.

7 Q Did you see anybody else that morning while
8 you were watching the people come and go in the west
9 wing, as to whether there were others who also seemed
10 to be taking this very hard?

11 A No.

12 Q Livingstone was the only one that you took
13 notice of?

14 A That came through the lobby down there --
15 I'm not saying there weren't -- but that came by our
16 location, yes.

17 Q Was he coming in or leaving at the point
18 that you intercepted him?

19 A Neither. He was crossing, actually,
20 from -- I don't know if he came from the hall that
21 runs east-west or he came from the second floor, the
22 elevator. He was crossing from north to south

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1 through the lobby, which is kind of towards the -- I
2 guess it was called the mess hall over there. I
3 don't know where he was headed. He was crossing from
4 north to south through the lobby and the door exits
5 to the west.

6 Q And the whole of your questioning of
7 Mr. Livingstone took a couple minutes?

8 A Probably five minutes or so. He gave me
9 his business card.

10 Q What did you do with his business card?

11 A I have it somewhere.

12 Q Did you ever phone him?

13 A No.

14 Q Was there any suggestion from any law
15 enforcement people, your supervisors or Secret
16 Service or FBI that in any way inhibited you from
17 following up with questioning Mr. Livingstone?

18 A No.

19 Q So, that was -- you were not obstructed in
20 any way from following up?

21 A No.

22 Q When Officer Abbott provided you the

1 information, I think you said that he said there were
2 some papers in the box. Did you say that?

3 A No. With the box and he didn't know if it
4 would be important or not.

5 Q But you made the assumption that there were
6 papers?

7 A I wrote "records" down here.

8 Q With a question mark?

9 A Yes. That is strictly a supposition.

10 Q This was sort of a note to yourself?

11 A Right. It was to question myself that I
12 wanted to talk to him about it.

13 Q Did Abbott say to you or did you question
14 Abbott about whether the box was sealed or closed,
15 not permitting him to see the contents?

16 A I didn't ask. It just was a box and he
17 couldn't tell what was in it.

18 Q He told you that he couldn't tell?

19 A The whole tone of him telling, this was
20 pretty matter of fact, it was basically I don't know
21 if it is important or not and that's it.

22 Q If he had told you that the box contained

1 one or more black binders, would that have been
2 something you would have taken note of?

3 A Full or empty? I don't know. He works
4 there.

5 Q The binders?

6 A No. I'm saying what does he think. He
7 works there, you figure, every day on a post like
8 that. For him to say I don't know if it is important
9 or not kind of indicates that it might be, otherwise
10 he wouldn't -- he is not going to tell me the cook
11 walked across with a tray of sandwiches, I don't know
12 if it is important. It was just worth a stop and
13 questioning Mr. Livingstone.

14 Q Going back to your own experience, there
15 wasn't a heck of a lot to do in that job, was there?

16 A No, and sometimes those guys get very
17 paranoid thinking of things they could do.

18 Q Without using paranoid in the pejorative
19 sense, I take it you have been there and did that and
20 knew that people in that position might like to
21 involve themselves a little more in what's going on?

22 A Right.

1 Q It is an otherwise somewhat -- not
2 denigrating the importance of the job, but it can be
3 a somewhat passive job; is that fair to say?

4 A Yes.

5 MR. BEN-VENISTE: I will close on the
6 record saying that I appreciate your ability to stay
7 a little bit later this evening and your willingness
8 to return at 2:00 on Friday.

9 MR. GIUFFRA: I have 2:30.

10 MR. BEN-VENISTE: 2:30. You work until
11 2:00 so 2:30 might be more convenient.

12 MR. GIUFFRA: Off the record.

13 (Discussion off the record.)

14 MR. BEN-VENISTE: We will resume at 2:00
15 and we will definitely finish on Friday, even if we
16 have to sit late. I would appreciate it if you would
17 not discuss anything to do with the substance of this
18 inquiry with anybody in the interim.

19 (Whereupon, at 7:09 p.m., the deposition
20 was adjourned.)

21

22

PETER W. MARKLAND

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smouskey
Notary Public in and for the
District of Columbia

My Commission Expires APRIL 14, 1996

FAMILY'S
ADDRESS

JAMES HAMILTON

4124-7826

363-3020

WEBB HUBBELL

514-9500

When body can be
released.

(Clinton St.?)

Craig ← with security

LIVINGSTON - responded
to Fairfax Hosp. - in body

Came down stairs

obs. (Brine Hagg?) with bar.
observed (creeds?)

Catherine Gallagher

Notified for

Webb Hubbell

First body @ 1300 hrs.
released

118

Bernie Nussbaum.

JANET RENO

↓
ANAKIS

Pat. Hines ASP
2000

HEYMAN
Philip HEYMAN

574-2101

Dep. Atty. Gen.

395-4420

4:26 PM.

Criminal Div.
Justice Dept. Rec.
- Roger Adams

Senior - David Margolin

Justice Command
514-5000 Center

Mark: Luperon

A.U.S.-A. 4:50 p.m.

~~_____~~ Larry Leiser

5:10 p.m. (7)(A)

Hegmann called
Back from Justice.

→ President's Counsel's
office

Arrangements with
counsel's office

Seal off area.

Mr. Crossman.

1310 - left office

He and Officer

Trud to page @ 1830

No response

He (Wassham) left office
@ 1830 Home of Mrs.

No unusual behavior

Betsy Ford.

Deborah Graham.

~~For~~ Interview

+ 0830

LIVINGSTON said he was
not in office today

(7) (A)

CLIFF SLOAN

456-2632

456-1414 LG.

4.4.93 @ 10:15

Mr. Nassman intro

2200 - 2400 7/20/93

Patsy Thomas - (TA)
(works for Watkins?)

Maggie Williams

(Hillary Clinton Chief of staff)

all three looked for possible role.

No documents returned

7/21/93

(MS) 7-715 Secretaries
piled paper

9 AM Mr. Nassman
looked again.

Theresa only took Paper basket.
and it was returned.

122

HILLWORTH.

SA SCOTT SAUND

7/22 @

POLL

DEBORAH GORMAN

- March 8, 93 Hire date

- Left 11:30 on 7/20

Does not know about
Lunch.- Conversation last Thursday
about differences in language
and government.

- No unusual behavior.

1:45 lunch

11:30 - 1:10

Exec. Assist. - Betty Ford -
Linda Thib

Staff Assist. - Tom Cassanova

Volunteer MARCUS MCDOUGALD

No reason whatsoever to deal
with physicians professionally.

Last Thursday Mrs.

Foster asked for his

pay schedule.

~~She~~ ^{her} checking account

was overdrawn.

Credit Union said they

would work with

Mrs. Foster. She was

authorized ^{by Mr. Foster.} to p.u. statement

every Friday for Mrs.

Foster.

Check stub filed -

"all gone anyway"

1000

Tom Costerton —

Did work ^{Lunch} part day

Remembers June 22

One not place time

Said "so long" when he

left. ~~for~~ after lunch

Mr. Foster was "In his

own world" Focused,

absorbed.

125

7/22

1150

LINA TRIPP -

800 -

Dennis - Donald

No personal dealings -

DID not have anything
(knifecase, bag etc...) with
him - absolutely.

Pers. Notes

7/20 Call log

Newspaper Article Copy?

Insurance Policy Folder.

NAME DD 8X11 size

May Business Calendar

JANUARY PHONE SURPS.

Goshen.

Within the last
two weeks. Calls

from Vance Jr. +
Wife asking how
he doing how's his word.

7/29 @ 1130

Mr. Nussbaum's office

Mr. Steve Newirth

7/26

Mon 10 - 1100

Held

Newirth

✓

Nussbaum

✓

Benton

McCluskey

Tues

-1

Less Foster

POTUS (I think of ex-ten)

ATT. Gen. → U.S. PORK

Haynes → 1700 → Case 1730

COMPLETED?

No POTUSOK Documents

3 or 4 work related.

Phone Log?

Assembled

Will review.

Kiki - Dinner

bka

129

UNITED STATES PARK POLICE INCIDENT RECORD

INCIDENT CASE #

United States Park Police

 INCIDENT NUMBER
 DATE 07-20-93
 TIME 1931
 PAGE 3-0151 OF 2

NATURE OF INCIDENT

RESULTS OF INVESTIGATION

7/21/93: Bernard Nussbaum

After negotiations between the White House Counsel's Office and the Department of Justice were completed at approximately 1700 hours on 7/21/93, S/A Condon, S/A Salter, Captain Hume, and Detective Markland responded to the West Wing and spoke with Mr. Nussbaum to make arrangements for interviews and a search of Mr. Foster's office on 7/22/93. Mr. Nussbaum is Chief Counsel to the President. S/A Salter and Det. Markland obtained the following information from Mr. Nussbaum as a result of that meeting:

-Mr. Nussbaum had determined that Mr. Foster had left his office after lunch at 1310 hours on 7/20/93. Mr. Foster had not exhibited any unusual behavior on that day. Mr. Nussbaum tried to page Mr. Foster at approximately 1830 hours. After waiting a brief period of time without receiving a response, Mr. Nussbaum left and proceeded to his domicile, arriving at approximately 1900 hours.

-On 7/20/93 after Vincent Foster's death became known to him, Mr. Nussbaum responded back to the White House where he went through Mr. Foster's office with Patsy Thomassen and Maggie Williams. Mr. Foster stated that they conducted a brief, quick search to see if Mr. Foster may have left a suicide note on his desk. This search lasted from 2200 to 2400 hours. Mr. Nussbaum stated that no documents were removed from the office.

-Mr. Nussbaum stated that he learned that from about 0700-0715 hours one of the secretaries had entered Mr. Foster's office and "piled papers" on his desk top "to make it neat".

-At approximately 0900 hours Mr. Nussbaum again entered the office to look around.

-It was determined that the cleaning lady had emptied Mr. Foster's trash. The trash was retrieved and returned to the office.

-Mr. Nussbaum requested that the U.S.S.S. secure the office and the room was posted at approximately 1015 hours.

Investigation continues.

AGENT(S)	10-TECH NOTIFIED	11-INVESTIGATOR NOTIFIED	PAGE 1 OF 1 PAGES
STATUS	OPEN	SUSPENDED	CLOSED BY
REPORTING OFFICER	ASSIGNED	CALL	INVESTIGATOR
DATE	07-21-93	TIME	11:00
ASSIGNED	DATE	SUPERVISOR	DATE

UNITED STATES DEPARTMENT OF JUSTICE
NATIONAL PARK SERVICE
SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE

FEDERAL AREA

United States Park Police

OF INCIDENT

Death Investigation

 MONTH
DATE
OCCUR

MO

DAY

YE

YEAR

CASE INCIDENT NUMBER

0

7

20

93

9

3

1

1

3

0

5

0

RECLASSIFICATION OF INCIDENT

RESULTS OF INVESTIGATION

Interview: Deborah Gorham

Deborah Gorham is the Executive Assistant that was assigned to Vincent W. Foster. Her desk is located in the common area between the two offices in the West Wing of the White House occupied by Mr. Bernard Nussbaum and Mr. Foster, respectively. Other persons occupying this common office space are Betsy Pond (Executive Assistant to Mr. Nussbaum), Linda Tripp (Executive Assistant), Tom Castleton (Staff Assistant), and Marlene McDonald (Volunteer).

The interview took place in a West Wing office at approximately 0900 hours and was attended by Det. Markland (USPP), S/A [Salter] (FBI), and Assistant White House Counsel Steven Neuwirth.

Ms. Gorham stated that she did not know Mr. Foster before she was hired on March 8, 1993 and had no social relationship with either Mr. Foster or any member of his family. On 7/20/93 she left the office at approximately 1130 hours, which is the last time she saw Mr. Foster alive. She stated that she did not note any unusual behavior by Mr. Foster on that day.

Ms. Gorham recalled a conversation with Mr. Foster on Thursday, 7/15/93 when he discussed the differences in working for a law firm and working for the government. She placed no significance on the conversation at the time and, in retrospect, it still seemed to be a normal comparison.

Ms. Gorham was asked if Mr. Foster would have any reason to deal with physicians directly on a professional basis due to his involvement with the Health Care Reform proposals under consideration. Ms. Gorham stated that there was no reason whatsoever for Mr. Foster to deal with physicians professionally.

The interview was about to be terminated when Mr. Neuwirth asked us to remain and took Ms. Gorham out of the room to speak to her. A very short time later they returned and Ms. Gorham stated that there was one thing she thought may be important that she recalled. On Thursday, 7/15/93, Mrs. Foster had called her and asked for Mr. Foster's pay schedule, explaining that she believed their checking account was overdrawn. The Credit Union was contacted and they stated that they would work with Mrs. Foster on a weekly, instead of a biweekly, basis. After that conversation Ms. Gorham was authorized by Mr. Foster to pick up a statement every Friday for Mrs. Foster. Ms. Gorham did not see this as a real problem or place any significance on

APPROPRIATE

YES

NO

CLERK'S

NOTICE

DID TECH NOTIFIED

INVESTIGATOR NOTIFIED

PAGE 1 OF 2

STATUS

OPEN

SUSPENDED

CLOSED BY

ANALYST

REVISION

UNFOUNDED

REPORTING OFFICER

BAGGINS

DATE

INVESTIGATOR

BAGGINS

DATE

SUPERVISOR

BAGGINS

DATE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE C

1. AGENCY United States Park Police	2. WHEN DID IT OCCUR? 07/20/97 10:13	3. CASE INCIDENT NUMBER 70191012
4. TYPE OF INCIDENT Death Investigation	5. A CLASSIFICATION OF INCIDENT	
6. RESULTS OF INVESTIGATION		

This initial interview was concluded at approximately 0930 hours.

At approximately 1450 hours, immediately after the inventory of Mr. Foster's Office by White House Counsel (reference report under this case file number by Capt. Hume), Det. Markland and S/A Salter were asked to remain and were ushered into Mr. Musssbaum's office by Mr. Neuwirth. Ms. Gorham was brought in and she stated that she had just remembered some conversations that she thought were important to our investigation. Within the last two weeks Ms. Gorham had received calls from Mr. Foster's eldest son and Mrs. Foster inquiring about Vincent Foster's mood. They specifically asked how "he" was doing, not how the work was going, and seemed genuinely concerned.

(7)(A)

Investigation continues.

7. STATUS <input type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED BY	8. LATENTS <input type="checkbox"/> TAKEN <input type="checkbox"/> NOT TAKEN	9. TOX TECH NOTIFIED	10. INVESTIGATOR NOTIFIED	11. PAGE 2 of 2 PAGES
12. REPORTING OFFICER RACELAND DATE 7/21/97	13. INVESTIGATOR RACELAND DATE 7/21/97	14. ARREST	15. RECEPTION	16. UNFOUNDED
17. SUPERVISOR	18. DATE	19. DATE	20. DATE	21. DATE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE 0

REPORTING OFFICE United States Park Police	DATE OF INCIDENT 07/20/93	TIME OF INCIDENT 09:31	LOCATION OF INCIDENT 931	INCIDENT NUMBER 3015012
---	------------------------------	---------------------------	-----------------------------	----------------------------

"Review of Documents from
Vincent Foster's Office"

On Thursday, July 22, 1993, in the afternoon the following persons met in the office of Vincent Foster to attempt to determine if he left a suicide note or if there were any other information that might have led him to take his own life. The very limited examination of the documents and notes were done by the Chief Counsel, Bernard Nussbaum. The following people were also present during this meeting: William Burton, Deputy Chief of Staff for the President, Clifford Sloan and Steven Neuwirth; Associate Legal Counselors, Michael L. Spafford; Attorney representing the Foster family, Captain Charles Hume and Detective Pete Markland; U.S. Park Police, Special Agents Scott Salter and Dennis Condon; Federal Bureau of Investigation, David Margolis, Deputy Assistant Attorney General Criminal Division; and Roger Adams; Department of Justice Attorney, Paul Imbordino and Donald Flynn; U.S. Secret Service.

Originally, we had responded to the White House on Wednesday morning, July 21, to examine his office. As soon as we arrived and met with Inspector Dennis Martin of the U.S. Secret Service Uniform Division, we had requested a guard be posted at the door of the office to prevent anyone from removing anything from the office. As the day progressed we were not permitted to examine the room. We departed the White House sometime around 1830 - 1900 hours. The U.S. Secret Service log of persons entering the office after 1100 hours on Wednesday, July 21, showed Bernard Nussbaum entering the office at 1110 hours to remove a small photo and Cliff Sloan entering at 1834 hours same day to replace a bag of trash previously removed from Mr. Foster's trash can.

At 1315 hours, Thursday, July 22, all 13 of us entered the office of Vincent Foster. Bernard Nussbaum took a seat at Foster's desk. He was surrounded by his two associates, Sloan and Neuwirth, with Burton near his side and Spafford at the end of the desk.

STATUS <input type="checkbox"/> OPEN <input type="checkbox"/> LATENTS <input type="checkbox"/> PHOTOS	1010 TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	PAGE 1 OF 2 PAGES
CLOSED BY	ARREST	EXCEPTION	UNFOUNDED
REPORTING OFFICER	SAC/CLERK	DATE	DATE

(7) (u)

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SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE

REPORTING OFFICE United States Park Police	DATE 10-7-20	TIME 9:31	YEAR 1931	CASE INCIDENT NUMBER 1310151012
TYPE OF INCIDENT each Investigation				
CLASSIFICATION OF INCIDENT				

RESULTS OF INVESTIGATION

The eight law enforcement officers were gathered on the opposite side of the desk and room in a position where we couldn't examine any documents. Eventually all law enforcement were seated, either on the sofa or in chairs provided by the U.S. Secret Service. During the process Bill Burton left the office on at least two occasions and returned. Bernard Nussbaum did the actual review of the documents in a very hurried and casual fashion. There was some conversation between Nussbaum and Margolis as to what constituted privileged communication. Nussbaum carried his interpretation of what was considered privileged to the extreme; one example was when he picked up a xeroxed copy of a newspaper article and declared that it was privileged communication even though it had been in the newspapers. Nussbaum would move papers about declaring what might be of interest to the police and what was strictly White House business.

Also, he decided what was Foster's personal papers and put those in a separate pile for the family attorney. Occasionally, Detective Markland or Margolis would ask him to place a certain note or document in a pile for possible police examination. At one point, Nussbaum pulled some papers out of a leather valise/briefcase that was sitting on the floor behind the desk. He put them on the desk and went through them. He then looked in the valise/briefcase again, but did not take anything out of it. A little later he moved the valise/briefcase away from the desk and placed it on the floor adjacent to the exterior wall directly behind him and the desk. At no time during the approximate one hour and 35 minutes we were in Foster's office where we were allowed to examine any documents. At one point Special Agent Scott Salter got up to stretch and Clifford Sloan challenged him and asked him if he was standing up in an attempt to get a look at the documents.

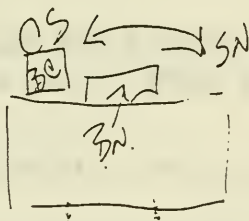
The documents that Nussbaum had separated out were left in the office with the exception of the pile containing what Mr. Nussbaum determined to be personal papers of Foster. It was agreed between Margolis and Nussbaum that the family lawyer could take those papers and after getting approval from Mrs. Foster the police could examine them. The telephone logs were not turned over to us. We cleared the office at approximately 1450 hours. Margolis cautioned Nussbaum and his staff not to remove anything from the office. Nussbaum stated he could not leave the office secured any longer. The lock remained on the door that had been installed by the U.S. Secret Service on Wednesday, and Nussbaum was given the key after we cleared the office on Thursday at 1449 hours.

GRANTED	CLERK'S INITIALS	1010 TECH NOTIFIED	INVESTIGATOR NOTIFIED	PAGE 2 OF 2 PAGES
STATUS	DATE	SUSPENDED	CLOSED BY	ARREST
REPORTING OFFICER	SAC/CHD	DATE	INVESTIGATOR	DATE

0002

T

M.S.
WB.



R.A.

D.M.

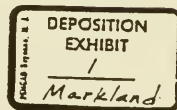
C.H.

COFFEE
TABLE

D.C.

PM SS

DF
P.I.



Markland C. 1 1

**DEPOSITION OF ROGER C. ADAMS
IN RE: S. RES. 120**

THURSDAY, JUNE 29, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ROGER C. ADAMS, called for examination pursuant to notice of deposition, at 9:45 a.m. in Room 640-A of the Hart Senate Office Building, before WENDY S. CASWELL, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.

Majority Special Counsel

RICHARD BEN-VENISTE, Esq.

Minority Special Counsel

LANCE COLE, Esq.

Minority Deputy Special Counsel

DOUGLAS A. EPSTEIN, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

PAUL J. FISHMAN, Esq.

CHARLES J. SGRO, Esq.

U.S. Department of Justice

Office of the Attorney General

Tenth Street & Constitution Avenue, NW

Washington, DC 20530

On behalf of the Deponent.

CONTENTS

WITNESS	EXAMINATION
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by Mr. Chertoff	3
by Mr. Ben-Veniste	142
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Errata	1815

EXHIBITS

DEPOSITION NUMBER	IDENTIFIED
Exhibit F149 and F150	39, 1820
Exhibit F151	83, 1822
Exhibit F1706-F1708	133, 1823
Exhibit F3148	135, 1826
Exhibit F3149-F3151	136, 1827
Exhibit F3398-F3403	140, 1830

PROCEEDINGS

Whereupon,

ROGER C. ADAMS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CHERTOFF:

Q All right. Mr. Adams, before we proceed, let me just go through some preliminaries. My name is Michael Chertoff. I am special counsel to the special committee pursuant to which or before which you are appearing in this deposition. Richard Ben-Veniste and Lance Cole are counsel to the Democrats on the same committee. I guess Mr. Ben-Veniste will also want to be asking you questions after I am done.

You understand here that you are appearing at a deposition conducted pursuant to Senate Resolution 120 which establishes a special committee to conduct an investigation involving Whitewater Development Corporation and certain other related matters?

4

A Yes, I understand that.

Q Section 1.B.1 of that resolution authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death."

That's the focus of today's deposition, do you understand that?

A Yes, sir.

Q How did you get notification to be here at this deposition?

A Mr. Fishman, my colleague and associate, told me that you wanted me. I expected you would want me. I think I actually heard about it from them.

Q Did you actually receive a copy of a letter in writing or was it just an oral notification?

A Just an oral notification.

Q Were you asked, in connection with your deposition here, to produce any documents to the Senate?

1 A No, not in connection with my deposition,
2 no.

3 Q Have you previously been asked to produce
4 documents in connection with some law enforcement
5 investigation arising out of occurrences in July
6 1993?

7 A Well, yes.

8 MR. FISHMAN: Well, wait. If we can go off
9 the record for a second.

10 MR. CHERTOFF: All right.

11 (Discussion off the record.)

12 THE WITNESS: I have given documents to
13 both special counsels.

14 BY MR. CHERTOFF:

15 Q You have copies of what you have furnished?

16 A Not with me but I can identify them if you
17 have got them.

18 Q You have had an opportunity to review them
19 since 1993?

20 A Yes.

21 Q Let me explain to you that there will be
22 public hearings on this issue at some point down the

1 line this summer, and there's a possibility that you
2 will be asked to testify at public hearings as well.

3 Now, the way this deposition proceeds is
4 that I will obviously ask you questions and you will
5 have to answer under oath. Do you understand that?

6 A Yes, I do.

7 Q If you don't understand a question, let me
8 know and I will reformulate it. Likewise, if I ask
9 you a question, please don't speculate or guess
10 unless I especially ask you to speculate or guess.

11 If you need a break, let me know. If you
12 want to consult with your counsel, let me know and we
13 will take a break.

14 A I would like to comment on that. These
15 gentlemen do not represent me. I do not have
16 counsel.

17 Q All right. So I want to clarify that. The
18 gentlemen who are here, Mr. Fishman and Mr. Sgro,
19 represent the Department of Justice; correct?

20 A Uh-huh.

21 Q They are not your personal attorneys?

22 A No, sir.

1 Q I assume you -- well, if you wish to
2 consult with them, you are free to do so. If not,
3 you are also free to do so.

4 A Just as long as the record shows they are
5 not representing me. I do not have counsel.

6 Q That's reflected. Let me ask you, have you
7 had an opportunity to obtain counsel?

8 A Yes. I don't need counsel.

9 Q That's your decision.

10 A Yes, I understand.

11 Q Just for the record, in terms of the
12 representatives of the Department of Justice here,
13 which one will be speaking?

14 MR. FISHMAN: I will, and as we discussed
15 yesterday in connection with another deposition, to
16 the extent -- we do represent the Department of
17 Justice and Mr. Adams only in his official capacity.

18 To the extent there are matters raised that
19 we believe warrant further discussion between the
20 Department and committee staff, prior to exploration
21 of those subjects we will ask to go off the record
22 rather than place a formal objection on the record

1 and see if we can work it out amicably in the
2 cooperative spirit in which we are approaching the
3 hearings.

4 MR. BEN-VENISTE: The record should note
5 that the iceman cameth and left.

6 BY MR. CHERTOFF:

7 Q The stenographer who you see sitting right
8 here is going to prepare a record of the questions
9 and answers. That transcript is going to be treated
10 as committee confidential, which means it will not be
11 publicly available until the hearings. Once the
12 hearings begin, some or all of the deposition may
13 become public at some point.

14 Four days before the hearings begin,
15 whenever that is, you will have an opportunity to
16 come and review the transcript in order to make
17 corrections. I should advise you, however, that if
18 you make corrections that are other than clerical and
19 administerial those corrections could be the basis
20 for redeposing you.

21 Likewise, if you are asked to testify at
22 the hearing, you will be furnished with a copy of the

1 deposition yourself four days before you testify on
2 condition that you are prepared to keep that
3 confidential and under the same restrictions as the
4 Senate is keeping.

5 A Okay. So I understand that. I mean, if
6 you do call me as a witness, I get the deposition, I
7 can take it to my office and study it as long as I
8 keep it to myself?

9 Q Keep it to yourself.

10 A All right.

11 Q That's exactly right.

12 Now, since there is counsel representing
13 the Department here, I should advise you that there
14 may be objections during the deposition, objections
15 as to form. They will be noted for the record but
16 you can go ahead and answer.

17 If there's an objection which is
18 accompanied by an instruction to you not to answer
19 the question, we may have some colloquy about it.
20 Please wait until we are done and then depending upon
21 the outcome of that, you may or may not answer.

22 I should tell you that if we are at an

10

1 impasse on something like that, we will either agree
2 to put it to one side and proceed or we may at some
3 point ask the chairman of the committee to rule on
4 objections because he is obviously the equivalent of
5 the judge on the issue of objections.

6 Is there anything that you have a question
7 about concerning what I have told you?

8 A No.

9

10

11

12

13 Q Your current business address?

14 A Okay. It's office of the Deputy Attorney
15 General, U.S. Department of Justice, Washington, D.C.
16 20530.

17 Q How far did you go in school?

18 A Well, I graduated from law school.

19 Q When did you graduate?

20 A 1969.

21 Q From where?

22 A Boston College Law School.

Q What did you do after you left law school?

A Three years in the judge advocate division of the Marine Corps. It was Vietnam, Vietnam era.

Q And then what?

A Then I started working with the Justice Department in the criminal division in December of 1972.

Q Have you worked at the Department of Justice or for the Department of Justice continuously from that time forward to the present day?

A Yes, I have.

Q Have you always been located in Washington?

A Yes.

Q Can you just briefly describe what your career history was at the Department from 1972 through 1992.

A Okay. Started out in what was then called the general crime section of the criminal division. It was not trial work. It was doing research, writing appellate briefs, helping U.S. Attorneys research matters. We were essentially supposed to be

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the experts on certain criminal statutes that Assistant U.S. Attorneys around the country would call us on for advice.

About three years after I started, I was made the chief of one of the four units in the section. I did that until approximately 1980 when there was some general realignment in the criminal division. My section was combined with others, and my unit was abolished.

1980, I transferred over to the office of legislation in the criminal division.

My duties there were basically drafting legislation for the Department, commenting on legislation that had been drafted by Congress and submitted to the Department for comment, preparing testimony for departmental officials for hearings and other matters related to the departments, and particularly the criminal divisions, the legislative program.

I guess I should say I had two long-term, fairly long-term special assignments, special details. In 1975 I was counsel for a group called

1 the Interagency Task Force on Vietnamese Refugees.
2 It was a group involved with resettling -- I think it
3 was about 150,000 -- we started out with people who
4 had come out of Vietnam after the fall of Vietnam.
5 They were in various camps around the country, places
6 like Fort Chaffee, Camp Pendleton. The job of the
7 task force was to get them out of the camps and into
8 society. There were various departments involved,
9 State Department, INS, and Justice was asked to
10 provide a general counsel for that and I was given
11 that assignment.

12 Essentially the same thing in 1980 with the
13 influx of Cuban and Haitian refugees, there was
14 another task force established and I was again asked,
15 because of what I had done in 1975, to be general
16 counsel for that task force. On both occasions I was
17 away from the Department about four or five months,
18 as best as I can remember.

19 Q After you finished your tour the
20 legislative affairs union, the criminal division,
21 what did you do next?

22 A Let me back up a minute. In the late '80s,

1 I think the fall of 1988, I was also given the job of
2 giving ethics advice to people in the criminal
3 division. Each component of the Department is
4 supposed to have what is called a deputy designated
5 agency ethics official, to provide advice on
6 government ethics, which is essentially conflict of
7 interest rules and whether or not people can accept
8 gifts and things like that. That was only a
9 secondary duty, but I became fairly knowledgeable on
10 those rules.

11 As a result of that, in 19 -- you want
12 me -- you are talking about '93 now?

13 Q No, up through 1992.

14 A All right. Well, I continued to do that up
15 through 1992. Those duties probably took about --
16 well, it would depend but on an average six or seven
17 hours a week I would spend on giving ethics advice to
18 people in the criminal division.

19 Q Now, during this period of time then, in
20 the 1980s, you continued to be attached to the
21 legislative affairs office?

22 A Exactly.

1 Q Did that continue through 1992?

2 A Yes, it did.

3 Q What was, in 1992, what was your position,
4 what was your title in the criminal division?

5 A Well, my exact title in the criminal
6 division was trial attorney, but de facto, the office
7 of legislation was a very small office. I was like
8 the deputy chief of the office but it was so small
9 that they didn't have a formal title. It wouldn't
10 have made any difference and there was no additional
11 money for something like that. But that was what I
12 was doing.

13 Q Now, beginning January 1993, did your
14 position change in the Department?

15 A Not in the Department, but at the end of
16 January, specifically, on February 1, I was on
17 another detail, yes.

18 Q What was the other detail?

19 A That was to the White House counsel's
20 office.

21 Q How did you come to get that detail?

22 A I came to get that detail because the

1 counsel's office was looking for people knowledgeable
2 in ethics rules and conflicts of interest rules, and
3 people knowledgeable about those -- the financial
4 disclosure forms that high level people and political
5 appointees have to fill out. I was familiar with
6 that because of all of those things, actually,
7 because of my ethics work. And the Department was
8 asked to have -- I think send two people over there.

9 I guess I was asked to do it in combination
10 of things. One, I think that I know the rules fairly
11 well and have done it reasonably well, and also that
12 was a very slow time in the legislative cycle. A new
13 administration was just starting. We were not
14 terribly busy, I could be spared from my division,
15 criminal division, better than my opposite at the tax
16 division could be spared.

17 Q Who went over from the Department of
18 Justice?

19 A Linda Donaghy; she is in the Justice
20 general counsel's office.

21 Q How long were you in the White House?

22 A I started on January 1, 1993. I finished

1 up late April, April 28 or 29. I forget the exact
2 date.

3 Q Where did you work actually physically in
4 the White House compound?

5 A I worked in the Old Executive Office
6 Building.

7 Q Did you have occasion from time to time to
8 be in the White House counsel suite, in the west
9 wing?

10 A Twice I was in the suite, yes.

11 Q Did you get to know Mr. Nussbaum?

12 A Well, I met him twice, once at a birthday
13 party for Mr. Nussbaum, his birthday, which everybody
14 in the office, including the people on detail, such
15 as myself, we went over for -- it was essentially a
16 surprise birthday party. I forget the exact date.
17 February, March, sometime like that.

18 The other time was the last day I was
19 there, I had my picture taken with him as sort of a
20 reward for my service.

21 Q Did you have occasion to meet Vincent
22 Foster during your period of being detailed over?

1 A Yes. I spoke to him -- actually I saw
2 him -- I actually saw him on three occasions.

3 Q What were those?

4 A The first day I was there, he stuck his
5 head in my office door and we introduced ourselves to
6 each other and spoke briefly.

7 The second time was at Bernie Nussbaum's
8 birthday party; we chatted briefly for a moment,
9 maybe a minute total. The third time was the day
10 that I had my picture taken with Bernie.

11 Mr. Foster's office, as everyone knows, is right off
12 of Bernie's office in the White House. He was
13 working at his desk. On that occasion I saw him. I
14 did not speak to him.

15 Q Did you work on any projects with
16 Mr. Foster?

17 A No.

18 Q Were you involved in his work on financial
19 disclosure forms?

20 A No. I had several people in the White
21 House. I also -- I worked on several White House
22 staff financial disclosure forms. Mr. Foster is not

1 one of them.

2 Q Did you work on the financial disclosure
3 forms of the President and the First Lady?

4 A No.

5 Q After you completed that detail, did you
6 return back to the criminal division?

7 A For about a week, yes.

8 Q And then what happened?

9 A I was asked to undertake my present
10 assignment in the Deputy Attorney General's office.

11 Q What is that assignment?

12 A To be on the staff of the Deputy Attorney
13 General and do whatever is needed.

14 Q What was your title in 1993 when you first
15 joined the staff?

16 A Of the deputy?

17 Q Yes.

18 A We didn't have formal titles. Everybody
19 would just sign correspondence office of the Deputy
20 Attorney General. No one had a formal title until
21 the fall of '93, I think, is the best I can recall.

22 Q At that point, what was your formal title?

20

1 A Counsel to the Deputy Attorney General.

2 Q Is that still your title?

3 A Yes, sir.

4 Q How did you come to work in the Deputy
5 Attorney General's office?

6 A Because when Phil Heymann was named Deputy
7 Attorney General, he had been in the criminal
8 division before. He continued to know David Margolis
9 for a number of years. David asked me to come up and
10 work with him. Phil had asked David to come up and
11 join his staff -- I am sorry, David asked me to join
12 him.

13 Q So you went up really along with David
14 Margolis?

15 A Yes.

16 Q Did you know Mr. Heymann well before you
17 joined the deputy staff?

18 A Not well, no. I had certainly met him
19 several times when he headed the criminal division
20 but I didn't know him well.

21 Q From the time you joined Mr. Heymann's
22 staff through the summer of 1993, what were your

1 general duties in the deputy's office?

2 A I was essentially the liaison to the
3 various components, the Marshal Service, to the
4 Bureau of Prisons, pardon attorney's office, parole
5 commission. I was also asked to do a number of
6 so-called vetting projects for political appointees
7 coming into the Department, reading things that they
8 had written, reading articles about various people.

9 Q Putting aside conversations you may have
10 had with investigators for investigative agencies or
11 special counsels or independent counsels or your own
12 personal attorney, if any, have you had -- have you
13 spoken to anybody before this deposition about the
14 subject matter of this deposition since August of
15 1993?

16 A Oh, sure. I have spoken to David -- David
17 Margolis and I have talked about the subject matter
18 since then, yes.

19 Q Anybody else besides David?

20 A I am sure I have spoken to my wife and
21 friends, brother, things like that.

22 Q Aside from family members, is there anybody

22

1 in the Department you have spoken to besides David
2 Margolis and Mr. Fishman and Mr. Sgro?

3 A I am sure I have. I just don't remember
4 specific conversations.

5 Q Since you have been notified that you were
6 going to testify at this deposition, have you talked
7 to anybody but counsel here or members of your family
8 about the deposition?

9 A Just the fact that it was going to occur on
10 approximately this date. I haven't gone over what I
11 think is going to be the subject matter of what you
12 are going to be interested in, no.

13 Q Has anybody talked to you about their
14 depositions before the Senate?

15 A No.

16 Q I want to direct your attention to July of
17 1993. Do you remember July 20, 1993?

18 A It was Tuesday, July 20.

19 Q Do you remember that date?

20 A Yes, I do.

21 Q When was the first time that you learned
22 that Vincent Foster had died?

1 A I heard it on the news. My clock radio
2 went off. The clock radio alarm went off. That was
3 the first thing that caught my attention. It was on
4 the news that he had been found dead.

5 Q Was that on Wednesday morning?

6 A Yes, it was Wednesday the 21st.

7 Q As you woke up?

8 A Yes, 6:00, 6:30, something like that.

9 Q So you hadn't had any knowledge of this or
10 been told about this before the morning of the 21st?

11 A No.

12 Q What did you do, if anything, in response
13 to hearing that news on the radio?

14 A I didn't do anything in particular. I got
15 up and went to work.

16 Q You didn't call in or anything?

17 A No. I didn't call in. At that time, in
18 the office next to me was a secretary, who had also
19 been on detail in the White House. She and I spoke
20 about it saying, in effect, gee, this was really a
21 terrible thing that the man was dead. She had known
22 him a little bit when she was over there.

1 Q Did you call over to the White House
2 counsel's office to express condolences or anything?

3 A No, no.

4 Q When you first arrived at the office on the
5 21st was Mr. Heymann there?

6 A Probably was. I think I saw him first
7 around 10:00 or 10:15 that morning.

8 Q During that morning, what discussion, if
9 any, did you have with people in the deputy's office
10 about the Foster death?

11 A Well, Phil Heymann told me to be ready to
12 go over to the White House to join the Park Police,
13 who were going to conduct a search of Mr. Foster's
14 office.

15 Q Now, when did he tell that you?

16 A The best I can recall, 10:00, 10:15; 10:30,
17 something like that.

18 Q When did you get in the office that day, do
19 you remember?

20 A Probably about quarter to 9, 8:30, quarter
21 to 9.

22 Q How did you first learn you were going to

1 be going over to the White House to join the Park
2 Police?

3 A Well, Mr. Heymann told me to be ready to do
4 that.

5 Q Did he call you into his office?

6 A As I recall the conversation, it was either
7 in his office or in the conference room just off his
8 office. It might have been after -- it might have
9 been after a staff meeting, it might have been after
10 some other meeting. I just don't recall the
11 preliminaries.

12 Q Was there anybody else there when you got
13 this instruction?

14 A No. He and I were alone.

15 Q Did he tell you anybody else would be going
16 over with you?

17 A No. I told him that -- I reminded him,
18 maybe, I am not sure or not, but I had been on this
19 previous detail to the White House. I told him about
20 that and said that maybe that would look a little
21 awkward if I were the one chosen, that had just come,
22 by that point, having come two months before detail

1 at the counsel's office. And he said he would think
2 about that.

3 Q At that point did he indicate that anybody
4 would be going over with you?

5 A Not then, no.

6 Q Why did you express this concern? What was
7 your reasoning behind the concern about going over,
8 given your previous detail?

9 A Sensitivity to the appearance, reasonably
10 quickly ascertained that there was really not a
11 conflict that prevented me from doing that, but I
12 just thought that maybe the appearances were such
13 that he should consider sending someone else.

14 Q In other words, your concern was that there
15 was an appearance that you might be less than
16 completely independent because you had a previous
17 contact with the White House counsel's office?

18 A Yes, my concern was there would be an
19 appearance of that. I had no doubt of my own ability
20 to be independent and that I would be representing
21 the Justice Department over there, but I was
22 sensitive to the appearance of that, yes.

- 1 Q You wanted to be extra careful?
- 2 A Well, obviously I am careful.
- 3 Q Did Mr. Heymann indicate he would think
- 4 over that issue?
- 5 A Yes.
- 6 Q Did he consult with anybody else about
- 7 that?
- 8 A He did ultimately before we went over
- 9 there, yes.
- 10 Q With whom?
- 11 A With the Attorney General.
- 12 Q How did he do that?
- 13 A I am not sure if he consulted with her by
- 14 phone, telephone, but they communicated in some
- 15 fashion.
- 16 Q Did he tell you that afterwards?
- 17 A I just don't recall if he told me that or
- 18 not.
- 19 Q You came to learn it somehow from your work
- 20 at the Department?
- 21 A I came to learn that from subsequent
- 22 conversations with David Margolis that Phil thought

- 1 that it would be wise to send someone else over in
- 2 addition to me. He didn't want to pull me off of the
- 3 assignment completely. He thought it would be a good
- 4 idea to send someone else. I might add it's not
- 5 uncommon to send two people on what's a fairly
- 6 significant assignment.
- 7 Q When did Mr. Margolis first get tapped to
- 8 join you in this assignment?
- 9 A Mid to late afternoon, 3:30, 4:00,
- 10 something like that.
- 11 Q How did you first learn about that?
- 12 A Phil called me down to his office and told
- 13 me that I would be going over there, but so would
- 14 David Margolis, be going with me. He was in the
- 15 process of locating Margolis. At that point he was
- 16 out of the building or involved in the meeting.
- 17 It's -- Phil was sending word to locate David and
- 18 have him join us. That happened in just a few
- 19 minutes.
- 20 Q Now at that point, Mr. Margolis, did he
- 21 have a title in the deputy's office?
- 22 A Not yet he didn't. Like I indicated

1 earlier, we all just signed correspondence office of
2 the Deputy Attorney General. He didn't have a title
3 but he was clearly seen as the number 1 staff
4 person. He was, de facto, the principal associate
5 deputy. He was the person who, in addition to
6 Mr. Heymann, gave people on the staff assignments.

7 Q Did he ultimately become titled with the
8 name Associate Deputy Attorney General?

9 A Yes, that is his title.

10 Q During this period of time, until you --
11 between the time that Mr. Heymann first indicated you
12 would be going over and the time that you and
13 Mr. Margolis were told that you would be both going
14 over, did you have any contact with the Park Police
15 over at the White House?

16 A No.

17 Q Did you have any contact with the FBI over
18 at the White House?

19 A No.

20 Q As of the afternoon when you and
21 Mr. Margolis were told you were going to go over, did
22 you have a meeting with Mr. Margolis in Mr. Heymann's

30

1 presence?

2 A Yes, a brief meeting when he told me we
3 would be going over there, yes.

4 Q At that point in time, what was your
5 understanding of why you were going over to assist
6 the Park Police?

7 A Because the Park Police were conducting the
8 investigation of a death on federal property they had
9 jurisdiction over. They wanted to conduct a -- I am
10 not sure if they called it a search or an inventory
11 of the office. I think the feeling on Phil Heymann's
12 part was that the White House might interpose certain
13 objections to them conducting that search. He wanted
14 some people from the Department representing rather
15 high authority to assist the Park Police in dealing
16 with the White House staff.

17 Q Did Mr. Heymann indicate whether his
18 concern came from some prior conversations he had had
19 with the Park Police?

20 A No. If he did, I don't recall them.

21 Q Was there a discussion at that point that
22 the Park Police had been held waiting for several

1 hours in the White House before they could conduct an
2 inventory?

3 A I just don't recall. I don't recall what
4 was said about the Park Police.

5 Q At that point, when you and Mr. Heymann and
6 Mr. Margolis were meeting, what was your
7 understanding about what role, if any, the FBI would
8 be playing at the White House?

9 A I am not sure if at that point, before I
10 got to the White House, I knew the FBI would be
11 involved at all. I think I first learned that the
12 FBI would be involved when we got there and there
13 were FBI agents there. It might well have been
14 discussed at the meeting with Phil and David and
15 myself. I just don't recall that part of the
16 conversation.

17 Q Did you, at this point -- were you present
18 for the entire meeting or was there a period of time,
19 to your knowledge, that Mr. Margolis, Mr. Heymann,
20 met between themselves?

21 A No. I feel very confident that I was there
22 for the entire meeting.

1 Q Now, at the time you had your meeting with
2 Mr. Margolis and Mr. Heymann, what discussion was
3 there about the manner in which you would proceed to
4 conduct the inventory in Mr. Foster's office?

5 A I don't recall any discussion of the manner
6 in which we would do that.

7 Q Was there a proposal that Mr. Heymann or
8 Mr. Margolis had under which you and Mr. Margolis
9 would briefly review each of the documents and
10 determine whether they were privileged or relevant?

11 A That was my understanding. I just can't
12 recall if that was discussed with Phil or not. It
13 may well have been. I just don't recall.

14 Q Was it discussed with David Margolis, did
15 you and David Margolis discuss that?

16 A We probably did on the way over there, yes.

17 Q On the way over on Wednesday, late
18 afternoon, July 21, what was your understanding with
19 Mr. Margolis about the procedure you would use in
20 conducting this inventory or search?

21 A Essentially the one that you just
22 described, that we would be allowed to look at each

1 file and determine relevance or privilege or
2 confidentiality and we would proceed like that.

3 Q Now, Mr. Margolis has been a prosecutor for
4 how long, if you know?

5 A He has been in the Department 30 years. He
6 has either been a prosecutor or supervising --
7 supervising prosecutions for the entire time, it's my
8 understanding.

9 Q Is it your understanding that he is a very
10 experienced prosecutor?

11 A He has had considerable experience in the
12 past. He would probably say he is not -- his present
13 courtroom skills are not as great as they used to
14 be. But he is very experienced.

15 Q But he has either conducted or supervised
16 many investigations; is that correct?

17 A That's correct.

18 Q Now, when you got over to the White House
19 on Wednesday, July 21, where did you go?

20 A We went into the counsel's office, Bernie
21 Nussbaum's office.

22 Q Who was there?

1 A It was Margolis and myself, Bernie
2 Nussbaum, there was Stephen Neuwirth from his staff.
3 There was some FBI agents, there was some Park Police
4 people. There might have been other White House
5 people. I don't specifically recall. There was a
6 group, eight, 10, maybe 11 people in the office.

7 Q Was Clifford Sloan there?

8 A I am not sure. I never met Clifford Sloan
9 until the other day but Neuwirth, on the other hand,
10 I recall because I had met him during my previous
11 detail. Sloan was not in the office on my previous
12 detail so I don't know him.

13 Q Did you go and have a meeting with
14 Mr. Nussbaum in his office within the White House
15 counsel's suite?

16 A Yes, that was a meeting at which all those
17 people we just described were present.

18 Q What was the discussion at the meeting?

19 A It was about the ground rules for the
20 search, which everyone agreed would not take place
21 until the next day.

22 Q Why was that agreed on? Why was that

1 agreement?

2 A Most of the White House people said they
3 were very tired, they had been up the night before,
4 they just didn't want to do it. They felt they
5 needed to take a break and not do it until the next
6 day.

7 Q So give me the discussion about the
8 arrangements that would take place the next day
9 during the search.

10 A I think as I have just described, the
11 agreement was that David and I would look at each
12 file and determine relevance or -- or determine
13 relevance first of all. If it was not relevant, we
14 were not -- if it were not relevant somehow to the
15 death of Vince Foster, we were not interested in it.
16 If somehow it was relevant and we thought the Park
17 Police should see it, we would determine
18 confidentiality. We used the word "privilege" but I
19 think the idea was confidentiality.

20 Q Who expressed this proposal to you or
21 Mr. Nussbaum. Was it you or Mr. Margolis?

22 A I am not sure exactly how the conversation

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1 went, but the procedure that I have just outlined was
2 what was clearly agreed upon at that meeting on
3 Wednesday the 21st.

4 Q Now, did Mr. Nussbaum agree to that in that
5 meeting?

6 A Yes, he did.

7 Q Did Mr. Neuwirth during that meeting
8 express a contrary point of view?

9 A He expressed a point of view. He was
10 either attempting to summarize the agreement or
11 attempting to change the agreement after Bernie had
12 stated it just as I have stated it. Neuwirth stated
13 that, okay, Bernie will look at the documents and
14 determine privilege, and that will be the way we will
15 proceed. I think both David Margolis and I corrected
16 him and said no, that was not our understanding.

17 I can't remember who exactly said what, but
18 it was very clear that our understanding of what
19 would happen; namely, that Mr. Margolis and myself
20 would see the files, was what Mr. Nussbaum had agreed
21 to on the afternoon of the 21st.

22 Q You left that meeting on the afternoon of

1 the 21st with that agreement from Mr. Nussbaum;
2 correct?

3 A That was certainly the understanding, yes.

4 Q Now, during this conversation, was there a
5 discussion about how Mr. Foster's office would be
6 secured until the search the next day?

7 A I think there was a discussion, and I see
8 you have my notes there, so that may be a more
9 accurate recollection.

10 Q I am happy to show them to you in a
11 minute.

12 A I will try it even without the note.

13 Q Okay.

14 A My recollection was that there was a
15 discussion that the office was secured with a
16 special, newly installed lock.

17 I think it was a Secret Service agent that
18 would have the key to the lock and that was the way
19 the office would be secured overnight.

20 Q This was something discussed with you,
21 Mr. Margolis and Mr. Nussbaum?

22 A And all the other people who were in the

1 room, yes.

2 Q What was said about why it was important to
3 keep that office secured?

4 A I don't recall anything specifically. It
5 was just everybody's understanding that it seemed to
6 be important. I don't recall any reasons being
7 expressed as to why.

8 Q Why, my question was why was it important?

9 A I think it was important that the office,
10 when Mr. Foster left it, that no one else have access
11 to it.

12 Q Did Mr. Nussbaum indicated during this
13 conversation that he had been in the office earlier?

14 A I think it was in this conversation where
15 he said that he had entered the office the night
16 before to make a quick search of the top of the desk,
17 looking for a possible suicide note. I think it was
18 in this conversation, when he also said that he had
19 noted -- no, that is wrong.

20 It was the next morning when he said he had
21 indicated that a cleaning person had removed trash
22 from the office and he ordered the person to take the

1 trash back and put it in a plastic bag. But as best
2 I can recall, it was that afternoon Bernie said that
3 he quickly entered the office to do a quick search of
4 the top of the desk looking for a note.

5 Q And then the next morning, there was
6 another conversation in which Mr. Nussbaum indicated
7 a cleaning person had been in there and had removed
8 some trash and he had had it recovered?

9 A Yes. Could I look at my notes for a
10 minute?

11 Q Sure. For the record, this is Exhibit 149
12 and 150, prefix F.

13 (Exhibit F149-F150 identified.)

14 THE WITNESS: Okay. It was this
15 conversation on the afternoon of the 21st that I now
16 see in my notes, which I am sure are accurate, where
17 Mr. Nussbaum said he allowed a secretary to enter the
18 office to straighten up the top of the desk.

19 BY MR. BEN-VENISTE:

20 Q Then also in that conversation you made
21 reference to the cleaning people?

22 A Yes.

1 Q Now, having looked at Exhibit F149 and
2 F150 -- let me just ask you, these are typed notes
3 you prepared when?

4 A Sometime the following week, probably the
5 29th of -- July 29 or 30, sometime along in there.

6 Q Was this prepared from any kind of written
7 log or diary you were maintaining?

8 A No.

9 Q It was your summary, the next week, of the
10 preceding week's events?

11 A That's right.

12 Q Did you prepare it after a note had been
13 found the week of the 26th of July?

14 A I prepared it after the note had been
15 found, I don't know at that period of time they had
16 found it.

17 Q I am going to withdraw the question. Did
18 you prepare it the week of July 26, after you became
19 aware that a note had been found?

20 A Yes.

21 Q What was the reason you prepared this
22 document?

1 A Mr. Heymann ordered me to prepare the
2 document.

3 Q You understood at this time it was
4 something that was important to be very careful
5 about, as a record?

6 A Yes.

7 Q Did Mr. Heymann indicate why he wanted you
8 to prepare this?

9 A He indicated he was not pleased with
10 various things the White House had done and ordered
11 me to prepare a memo on essentially what they had
12 done and what we had done.

13 Q Is there anything you left out of the memo
14 that was relevant to your interaction at the White
15 House the latter part of July 1993?

16 A At this juncture, I guess I can say I hope
17 there wasn't. I tried to be as accurate as I could
18 at that time.

19 Q Now, directing your attention back to July
20 21, this afternoon meeting, when Mr. Nussbaum
21 indicated he had been in the office the evening
22 before, he indicated that he had quickly looked at

1 the top of the desk; correct?

2 A He said a quick look at the top -- a quick
3 search of the top of the desk.

4 Q Did he indicate anybody else had been in
5 that office the night before?

6 A No. I think, as I have it in my notes, I
7 think he said that someone, a secretary, had entered
8 to straighten up but it was my impression that was
9 the next morning.

10 Q Did he indicate that the chief of staff to
11 the First Lady had been in Mr. Foster's office the
12 night before?

13 A He didn't say that.

14 Q Did he indicate that Patsy Thomasson,
15 another high level White House staff person, had been
16 in the office of Vincent Foster the night before?

17 A He didn't say that either.

18 Q So the only people that he told you and
19 Mr. Margolis about, during that meeting in the
20 afternoon, as having been in Mr. Foster's office
21 since the evening before were himself, a secretary,
22 and cleaning personnel; is that correct?

1 A That's correct.

2 Q Was this something that he had volunteered
3 or was this something that Mr. Margolis specifically
4 asked about?

5 A I don't recall how the conversation had
6 gone, but that was the -- my understanding of what
7 had -- of the people who had been in the office.

8 Q Was there any discussion about whether any
9 of those people had disturbed anything or removed
10 anything, other than trash having been removed?

11 A No, I don't think so, no.

12 Q When you and Mr. Margolis left that meeting
13 with Mr. Nussbaum, did you have discussion between
14 yourselves about whether the integrity of
15 Mr. Foster's office had been compromised by these
16 entries?

17 A I don't recall that we discussed that, no.

18 Q When you left the meeting with
19 Mr. Nussbaum, did you leave the White House?

20 A Yes, we went back to our office, back to
21 the Justice Department.

22 Q Did you have any conversation with the Park

1 Police or the FBI agents after you left
2 Mr. Nussbaum's office?

3 A I am sure we did. I remember talking with
4 them. I don't remember specifically what was said.
5 Probably to the effect we will see you in the
6 morning, something like that.

7 Q Did they express any annoyance about the
8 fact that they had been waiting there the better part
9 of the day?

10 A I don't recall at this juncture what they
11 said.

12 Q Now, when you went back with Mr. Margolis
13 for the balance of that day, the 21st, what
14 preparations, if any, did you make for the next day's
15 activities.

16 A I don't specifically recall. I think our
17 understanding was that we would be back there at
18 10:00 the next morning. I probably talked with David
19 about the logistics from the time we would be leaving
20 the Department, that sort of thing. I didn't have
21 any more conversation with David about it after we
22 got back.

1 Q Did you know there were going to be
2 interviews of White House personnel the next day?

3 A No.

4 Q Did you discuss with David Margolis what
5 would be relevant in your search and review of
6 documents and materials in Mr. Foster's office the
7 next day?

8 A As best I can recall, we probably talked
9 about looking for a suicide note or some indication
10 that -- of something that would cause him to commit
11 suicide, either some sort of a scandal he couldn't
12 handle, extort -- somehow he had been the victim of
13 extortion, things like that. The normal things one
14 would think that would cause a successful fellow like
15 Mr. Foster to commit suicide.

16 Q At that point did you know that he had
17 committed suicide or was there still an open
18 possibility that it had been something else?

19 A I guess there was a remote possibility it
20 had been something else but I never thought it was
21 other than a remote possibility that it had been
22 something other than a suicide.

1 Q When did you meet Mr. Margolis the next
2 day -- let me reask the question.

3 For the balance of the day on the 21st of
4 July, did you do anything else in relation to this
5 matter at the White House and Mr. Foster's death
6 which you haven't told us?

7 A I might have sat in David's office and
8 discussed the meeting that day at the White House and
9 what we were going to do. I was in his office a lot
10 at that time. I just don't recall. It would have
11 been logical that we would have done that. I just
12 don't recall any details of what was said if, in
13 fact, I did have such a meeting with him.

14 Q Did you or Mr. Margolis report back to
15 Mr. Heymann that evening or later that day?

16 A It was my understanding David did but I did
17 not.

18 Q David did?

19 A It's my understanding he did.

20 Q Did he tell you that he was going to?

21 A I don't specifically recall. It was my
22 understanding that he was going to and my

1 understanding that he did. You know, two years
2 removed, I can't recall exactly what he did. But he
3 did talk with Phil about it, yes.

4 Q When did you meet with Mr. Margolis the
5 next morning?

6 A Probably about 9:15 or 9:30.

7 Q Where?

8 A I don't specifically recall. Probably his
9 office, as best I can recall.

10 Q What did you do then?

11 A We just got ready to go over to the White
12 House. It might have well been a few minutes after.
13 There wasn't a great deal of preparation, as I can
14 recall. If the events of the White House were
15 scheduled to start at 10:00, it was probably like
16 closer to quarter of when I first saw Margolis.

17 Q So you got to the White House around 10:00?

18 A Yes, a few minutes before.

19 Q Where did you go?

20 A The White House counsel's office again.

21 Q Who was there when you arrived?

22 A Just Mr. Nussbaum, I think, and Margolis

1 and myself.

2 Q Were you expecting the Park Police and the
3 FBI to be there?

4 A Well, let me back up and clarify. In
5 answer to your last question, I think those people
6 were there. They were probably waiting in the
7 hallway, as best I can recall. When we arrived,
8 Margolis and I went into Nussbaum's office and the
9 three of us sat down to talk.

10 Q Tell us what happened.

11 A Mr. Nussbaum said that he had decided that
12 we would not be seeing the files ourselves and he
13 alone would look at each file and determine the
14 relevance. And we could be there to observe, that we
15 would not be actually seeing the files ourselves.

16 Q What did you respond, you and Mr. Margolis?

17 A We protested that. We said that was not
18 our understanding yesterday. David said that he
19 needed to call Phil Heymann to discuss that change in
20 rule and he did so.

21 Q Did he do that right there?

22 A He did but Bernie wasn't -- as best I can

1 recall, Bernie was out of the room. David and I were
2 sitting in Bernie's office. Bernie had gone off to
3 do something else. David called Phil on the
4 telephone.

5 Q Before that call to Phil Heymann, how long
6 were you discussing with Mr. Nussbaum Mr. Nussbaum's
7 change of plan?

8 A Five or six minutes I would say, at least.

9 Q Were you surprised by his change of plan?

10 A Yes, I was.

11 Q Did you do most of the talking back to
12 Mr. Nussbaum, or did Dave?

13 A Margolis did most, but I did some too.

14 Q Well, first, what did you say back?

15 A What I said was, it was rather late in the
16 conversation, I told Bernie that one of the reasons
17 that we two had been chosen for the assignment is we
18 had the reputation of not leaking, not talking to the
19 press. They didn't have to worry about press leaks
20 for letting us -- press leaks, or any other kinds of
21 leaks, for letting us see the file.

22 Q What did Mr. Margolis say?

1 A He said that this was certainly not our
2 understanding from yesterday, that it would do little
3 good for -- to conduct a search under Bernie's newly
4 proposed rules, that it was important for public
5 relations purposes that it be seen as the Justice
6 Department people being involved in making decisions
7 about relevance and confidentiality.

8 MR. CHERTOFF: Let's go off the record a
9 minute.

10 (Discussion off the record.)

11 BY MR. CHERTOFF:

12 Q You were telling us, before you were
13 interrupted to change the court reporter's paper,
14 what Mr. Margolis said in response to Mr. Nussbaum's
15 change of plan?

16 A I remember he used the phrase "Bernie was
17 making a big mistake."

18 Q Did Mr. Margolis say to Mr. Nussbaum in
19 substance that it would defeat the point of having an
20 independent -- the appearance of having an
21 independent review by the Justice Department if the
22 Justice Department lawyers were not allowed to look

1 at the documents?

2 A Yes. In substance, yes.

3 Q What did Mr. Nussbaum say when Mr. Margolis
4 said it was a big mistake?

5 A I don't recall specifically when he said
6 that. He did not make a decision right then though.
7 He said he would think about our arguments and get
8 back to us.

9 Q Is that the point at which Mr. Margolis
10 indicated he was going to call Mr. Heymann?

11 A As best I can recall, yes, it was at the
12 end -- he said, okay, if that was Bernie's decision,
13 that he wanted to talk with Phil Heymann; he then
14 called him on the phone, with Bernie out of the room.

15 Q How did Bernie Nussbaum leave it at that
16 point? Had he made a decision, a firm decision, or
17 did he indicate he would reconsider?

18 A He indicated he would think -- best way I
19 can sum it up is to say he indicated he would think
20 about it and get back to us.

21 Q Did he say he would talk to anybody about
22 it?

1 A He didn't say what he would do. He said he
2 would think about it.

3 Q Did anybody else comment on this meeting
4 between the three of you at that point?

5 A No, I don't think so.

6 Q Is there anything else you can think of
7 about the conversation between the three of you that
8 morning?

9 A No. I think I summarized it pretty well.
10 As I indicated, Mr. Nussbaum indicated he would think
11 about the points we had raised, it was not -- you
12 know, the arguments we had made. It was not a final
13 decision of his at that point.

14 Q Did Mr. Nussbaum indicate he had spoken to
15 anyone before the intervening time between your
16 agreement the night before or the afternoon before
17 and his change of plan that morning?

18 A I don't recall him saying he had spoken to
19 anyone, no.

20 Q Did David Margolis call Phil Heymann in
21 your presence?

22 A Yes.

1 Q Did he later -- did he afterwards tell you
2 what Mr. Heymann said to him in the conversation?

3 A He has discussed that but I can't recall
4 exactly what he said Phil Heymann said.

5 Q Based on both what you heard during the
6 conversation and what you have subsequent -- what you
7 later learned from Mr. Margolis, no matter when you
8 learned it, what was the discussion between
9 Mr. Margolis and Mr. Heymann that morning on the
10 22nd?

11 MR. BEN-VENISTE: Could we break that into
12 two parts so we have some clarity of what is direct
13 evidence and what is hearsay?

14 MR. CHERTOFF: Well, I don't think that
15 Mr. Margolis's statements would be hearsay in this
16 circumstance.

17 BY MR. CHERTOFF:

18 Q But in any case, if you can, if you can
19 break down what you remember overhearing versus what
20 part comes from Mr. Margolis coming to you later?

21 A I don't recall at this point anything -- I
22 don't recall any specific words that I overheard. I

1 remember the substance was David explaining to Phil
2 Bernie's change of position. That's all I can recall
3 of the conversation.

4 Q And what did you learn that Phil Heymann
5 said to David Margolis in this conversation?

6 A I think I subsequently learned that Phil
7 said he wanted to talk to Bernie himself.

8 Q How did you subsequently learn that?

9 A I think David told him, but, again, I am
10 not absolutely positive. I have to couch that by
11 saying I think that's what happened. I think David
12 told that to me.

13 Q How long was the conversation between David
14 Margolis and Phil Heymann?

15 A And Phil? Three, four minutes, something
16 like that.

17 Q After David Margolis got off the phone,
18 what did he tell you were the instructions, if any,
19 he had gotten from Mr. Heymann?

20 A I just don't specifically recall what he
21 told me.

22 Q Did he tell you at that point anything

1 about what you were supposed to do?

2 A Well, at that point, we were waiting for
3 Bernie Nussbaum to reconsider. He said, okay, he
4 would reconsider our arguments and get back to us.
5 And at that point, I forget exactly how it was
6 communicated to us, whether Bernie asked us or
7 somebody else asked us -- maybe Cliff Sloan, I am not
8 sure -- asked us to just wait for a while and stay
9 there, either in the west wing, in the lobby, in the
10 first floor or outside. And they, being people in
11 the White House counsel's office, would get back to
12 us and let us know how this inventory is going to be
13 conducted.

14 Q So you left Bernie's office at that point?

15 A Yes. I think, yes. We left -- and I think
16 it was Cliff Sloan, but again I am not positive --
17 but at any rate, we went down to the first floor
18 lobby area in the west wing and waited. We also
19 stepped outside because Mr. Margolis smokes and we
20 went back and forth.

21 Q Did you and Mr. Margolis communicate to
22 anybody that Phil Heymann wanted to talk to Bernie

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1 Nussbaum?

2 A David communicated that to me.

3 Q Who did he tell?

4 A I think he told Bernie, as best I can
5 recall. I can't recall the exact words but it was my
6 understanding that David communicated that to Bernie.

7 Q So Bernie Nussbaum came back in after your
8 conversation with Phil Heymann and at that point was
9 told that Phil wanted to speak to him?

10 A Yes, as best I can recall, that was what
11 happened. Somehow, he either came back in or we
12 spoke to him in the hallway or outside and something
13 like that, I think, was communicated, yes.

14 Q Were you present for Mr. Nussbaum's call
15 with Mr. Heymann, if any?

16 A No. I was not present.

17 Q How long were you waiting downstairs?

18 A Probably about an hour and a half or so.

19 Q In the meantime what were the Park Police
20 and Secret Service and FBI agents doing?

21 A I think they were waiting too. I think, as
22 best I can recall, they were somewhere in the

1 vicinity but they were not with us all the time.

2 Q Do you know whether some of them were
3 interviewing witnesses?

4 A I don't know that, no.

5 Q Were you involved at any point that day in
6 the process of either directly participating or
7 talking about witness interviews being conducted by
8 the agents at the White House?

9 A No. I was not involved in any of that.

10 Q Was your approval -- and when I say "you,"
11 I mean you and Mr. Margolis, because I take it you
12 were together during this entire time; correct?

13 A Yes.

14 Q Were you and Mr. Margolis asked to approve
15 and discuss the terms and conditions under which
16 White House witness interviews would take place on
17 that day?

18 A I just don't recall. It might have been
19 some conversation that David engaged in, but I just
20 have no recollection of that at this point.

21 Q After an hour, hour and a half or however
22 long you waited downstairs, what happened next?

1 A We were told that it would be a further
2 delay of half or three-quarters of an hour, and why
3 didn't we get some lunch. Again, I think it was
4 communicated to us by Cliff Sloan and he suggested we
5 walk over to the OEOB for lunch, and David and I did
6 that, had some lunch.

7 Q At that point did you have any idea what
8 the status of this was?

9 A No. The status of it was we were just
10 continuing to wait.

11 Q Did you know whether Mr. Nussbaum was
12 talking to anybody about this, besides Mr. Heymann?

13 A I don't know what he was doing.

14 Q Were you and Mr. Margolis annoyed?

15 A A little, yes.

16 Q Was there a point during this waiting
17 period that Mr. Nussbaum came down and expressed some
18 concern that Mr. Margolis might leave?

19 A I can't recall if Bernie came down or if he
20 sent Cliff Sloan down. There was something to that
21 effect. He asked us not to leave, he would have a
22 decision soon. That was the general -- as best I can

1 recall, that was the general tenor of what was
2 communicated to us.

3 Q Did you consider leaving?

4 A I didn't, no.

5 Q Did Mr. Margolis consider leaving?

6 A I am not positive. I don't know.

7 Q Did you talk about leaving, possibly
8 leaving with him?

9 A I just can't really recall. It was my
10 impression that we didn't really talk about leaving.
11 Again, I'm sorry. After two years, I don't
12 specifically recall.

13 Q What did you talk about while you were
14 waiting?

15 A I suppose I can speculate that we then
16 speculated on what Mr. Nussbaum might have been
17 doing, but I just simply can't recall the exact words
18 that were said.

19 Q Can you remember in general what you were
20 speculating that Mr. Nussbaum might be doing?

21 A I don't know. I don't know if I
22 communicated this to David or not. I mean, I knew

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1 from my previous experience of the White House that
2 there are only a certain number of people that he
3 might be conferring with, four or five other people
4 who had the title assistant to the President.

5 I suppose it crossed my mind he might be
6 talking to one of those people. It was just pure
7 speculation. I have no idea what he was doing and I
8 have never found out.

9 Q Who did you think he might have been
10 conferring with?

11 MR. FISHMAN: I want to go off the record
12 for a minute.

13 THE WITNESS: That's speculating. I can't
14 answer that.

15 MR. CHERTOFF: Sure.

16 (Discussion off the record.)

17 BY MR. CHERTOFF:

18 Q Let's go ahead. Based on your experience,
19 having worked at the White House, do you have an
20 opinion about who the people are with whom
21 Mr. Nussbaum might have been consulting or would have
22 been consulting during this day on July 22?

1 A I have an opinion, we.

2 Q What is the opinion?

3 A Well, it's just speculation --

4 Q Okay.

5 A -- but if you want speculation, I will be
6 glad to speculate.

7 Q Go ahead.

8 A I think he was probably talking with the
9 President and the First Lady, if he was talking with
10 anyone. In my opinion, those were the people he
11 would have been talking with. Talking to the
12 President and the First Lady or one of the other five
13 or six people who had the title of assistant counsel
14 to the President. But let me underscore again, I
15 don't know what he was doing.

16 Q Now, that opinion is formed based upon your
17 observations -- based in part on your observations
18 during the couple of months or so that you worked as
19 a White House detailee?

20 A Not so much observation, just the fact that
21 he was part of the top echelon of the White House,
22 the White House staff. It was my understanding, I

1 didn't see this directly, but it was my understanding
2 that those people had interaction a lot with the
3 President and the First Lady.

4 Q During your period of time in the White
5 House, as a White House detailee, do you know whether
6 Mr. Nussbaum regularly discussed legal discussions
7 with the President and the First Lady?

8 A I don't know --

9 MR. FISHMAN: Wait a minute. I am going to
10 interpose an objection here. I do not know to the
11 extent, because he was detailed to the White House
12 counsel's office, such a question was privileged --

13 MR. CHERTOFF: We are just asking whether
14 he regularly consulted with them.

15 MR. FISHMAN: Under those circumstances,
16 that's fine.

17 THE WITNESS: What is the question again?
18 (The reporter read the record as requested.)

19 THE WITNESS: I don't have any firsthand
20 knowledge of what he did on a day-to-day basis.

21 BY MR. CHERTOFF:

22 Q Do you have a general impression, from

1 having worked in that organization?

2 A My general impression was of course he
3 talked about legal issues with the President. I
4 don't know what legal issues. I was never present in
5 any such discussion. I could not begin to tell you
6 even one day what Mr. Nussbaum's schedule might have
7 been like, except that, of course, I had my picture
8 taken with him.

9 Q What about the First Lady, do you know
10 whether he regularly discussed, or do you have an
11 impression whether he regularly discussed legal
12 questions with the First Lady during the period you
13 were a White House detailee?

14 A I don't have any knowledge about that.

15 Q You said there was a period of time
16 someone, perhaps Mr. Sloan, came down to you on the
17 22nd and suggested you go have some lunch.

18 A Yes.

19 Q And how long was your lunch with
20 Mr. Margolis?

21 A 30 minutes, approximately.

22 Q Then what happened?

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1 A Then we went back over and were standing
2 outside, on the street, essentially between the OEOB
3 and the White House and we were told -- I forget
4 exactly how we were told this, possibly Sloan again
5 telling us -- that Bernie was ready to begin the
6 search of Mr. Foster's office.

7 Q So what did you do?

8 A We proceeded to Mr. Foster's office.

9 Q What happened? Who was there?

10 A Mr. Margolis, myself, Cliff Sloan, Steve
11 Neuwirth, both associate counsels, two FBI agents as
12 best I can now recall, and also someone from the Park
13 Police as best I can recall; a group of about eight
14 or nine of us standing around the office.

15 Q When you got up there, were these people
16 already in the office or were they waiting in the
17 outer office?

18 A I don't have a perfect recollection; as
19 best I can recall, I think we were all sort of
20 ushered in at the same time.

21 Q Was Mr. Foster's office open or closed when
22 you got up there?

1 A I don't specifically recall.

2 Q Do you know whether there was a Secret
3 Service agent who was on watch at the office at that
4 point?

5 A Well, that was the understanding the day
6 before. The Secret Service agent would hold the
7 key. I just can't recall whether he was there then
8 or not.

9 Q But that was your understanding on July 21,
10 the afternoon when you had your meeting with
11 Mr. Nussbaum?

12 A Yes, but the office would be secured with a
13 key held by the Secret Service.

14 Q When you got into Mr. Foster's office,
15 where did you all sit?

16 A Bernie Nussbaum sat behind Vince Foster's
17 desk, his two associate counsels stood on either side
18 of him; the rest of us stood or sat in chairs
19 arranged in a rough semicircle or possibly as a
20 group, facing the front of the desk.

21 Q When you say "facing," you mean facing
22 Mr. Nussbaum?

1 A Yes, facing Mr. Nussbaum.

2 Q Was there anybody in the law enforcement
3 group -- which is how I am referring to you,
4 Mr. Margolis, the FBI agents, the Park Police and
5 anybody from the Secret Service. Was there anybody
6 from the law enforcement group who was standing
7 behind the desk facing in the same direction as
8 Mr. Nussbaum?

9 A No.

10 Q What happened?

11 A Well, what happened at that point was a
12 further discussion between Mr. Margolis and Bernie
13 Nussbaum about the ground rules of the search. David
14 again said, as best I can recall, you are making a
15 big mistake and we might as well be back in our
16 office as far as all the good we are doing you.

17 Q What did Mr. Nussbaum say?

18 A I don't remember his exact words. He said
19 he was going to proceed under the rules of search
20 that he had described that morning.

21 Q So then what happened?

22 A He proceeded to do that. He proceeded to

1 go through Vince Foster's desk, and I think a
2 credenza in back of the desk, and remove files; and
3 he would say things like this is personal, I am going
4 to turn it over to his family attorney.

5 I add, an attorney for the family was also
6 present. I forgot that earlier.

7 Q Now, where was he standing or sitting?

8 A He was -- I don't recall specifically. The
9 best I can tell you, he was to my left. I don't
10 think he was behind the desk. He was sort of sitting
11 off to the side of his desk, as best I can recall.

12 Q All right.

13 A All right. So Bernie pulled files out of
14 the desk and credenza in back of it and would say
15 things like, okay, this is personal, I am going to
16 turn it over to the family attorney. This is a legal
17 matter, he has been working on here in the office,
18 and in which case was put in a pile with the
19 understanding the work was going to be distributed to
20 other White House counsel people to work on. And the
21 third category of documents were things that he was
22 working on, personal legal business for the President

1 and the First Lady, and those things are going to be
2 turned over to their personal attorney.

3 Q Now, as Mr. -- can you describe, as best
4 you can, how Mr. Nussbaum actually was physically
5 handing the documents as he was removing them and
6 looking at them and distributing or putting them in
7 different piles?

8 A Well, as best I can redescribe, he pulled
9 out the file, and I don't recall if he put it down in
10 front of a desk or just sort of held it horizontally
11 in front of him to look at or not.

12 Q You mean vertically?

13 A No, it would be horizontally so he could
14 look at the contents. Just vertically, to my way of
15 thinking, the documents would have been slipped out
16 if they hadn't been secured. Anyway, as best I can
17 recall, he glanced at each file and made the type of
18 decision that I just described to you.

19 Q When you say "glanced," was he moving
20 through the paper quickly?

21 A Moving reasonably quickly, yes.

22 Q The way he held the paper, did he shield it

1 from your eyes?

2 A I just simply couldn't see it from where I
3 was sitting. Again, I can't recall exactly what he
4 did to let that happen and I don't think anybody else
5 in the group could see what he was reading from
6 either.

7 Q Were you sitting next to David Margolis in
8 the front row?

9 A I was sitting next to David Margolis. I
10 can't recall -- I wouldn't say the grouping was even
11 so definite that there were rows. It was essentially
12 a bunch of people.

13 Q Were you as close to Mr. Nussbaum as
14 anybody in the law enforcement group?

15 A Probably, yes.

16 Q When Mr. Nussbaum would -- after he would
17 categorize a document orally, your testimony is he
18 would place it in a pile?

19 A Yes, one of three piles.

20 Q Face up or face down?

21 A Well, they were mostly file folders, the
22 file folders were closed. I assume it was face up so

1 the person getting the filed folder could read the
2 title of the folder.

3 Q But the paper wasn't visible to you after
4 he put it down?

5 A No.

6 Q How long did this process take?

7 A As best I can recall, about an hour, maybe
8 an hour and five, 10 minutes, something like that.

9 Q During this process did he show anybody
10 besides the two associate counsel that were with him
11 any of the pieces of paper that he was looking at?

12 A No. He didn't.

13 Q Was there -- during this ongoing process
14 was there further discussion or even debate between
15 Mr. Margolis and Mr. Nussbaum concerning how certain
16 things would be categorized?

17 A No, not that I recall. The debate, there
18 was a further debate over the procedure before he
19 started. Once it started, I don't recall. I don't
20 recall Margolis saying anything further.

21 Q And that the debate over the procedure was
22 as you have previously described?

1 A Yes.

2 Q Did there come a point in time that the
3 trash was looked at?

4 A I can't recall. I'm sorry, at this point,
5 I just don't know.

6 Q Do you remember whether anybody came in and
7 out of the office while this procedure was under
8 way?

9 A Somebody did come in and out of the
10 office. I don't know who the person was.

11 Q Do you know if it was Mr. Burton?

12 A I don't know.

13 Q Was there a point in time during which one
14 of the two associate counsels left the office?

15 A I can say at this point, I don't recall; I
16 don't think they did.

17 Q Do you recall Mr. Nussbaum calling somebody
18 to go retrieve some trash?

19 A I don't think he called for anyone to
20 retrieve trash during this search. I think he told
21 us the previous afternoon he had ordered trash
22 retrieved.

1 Q But you don't remember seeing the trash,
2 physically looked at it?

3 A It's possible. I'm sorry. I just don't
4 specifically recall right now.

5 Q Was there discussion concerning a burn bag?

6 A I don't recall.

7 Q Do you recall if Mr. Nussbaum looked into a
8 burn bag?

9 A I'm sorry, I just don't recall.

10 Q Was Mr. Nussbaum allowing Mr. Neuwirth and
11 Mr. Sloan to look at the documents with him?

12 A Yes.

13 Q Did they consult with each other?

14 A They consulted with Mr. Nussbaum usually.
15 I wouldn't say usually, occasionally. Occasionally
16 one of them would consult with Mr. Nussbaum as to
17 which pile it would go in, yes.

18 Q Did there come a point in time -- I'm
19 sorry, withdrawn.

20 When Mr. Nussbaum opened drawers, was it
21 possible for you to see into the drawer itself?

22 A No.

1 Q Were you able to determine whether
2 Mr. Nussbaum removed everything from the drawers?

3 A No.

4 Q When Mr. -- you said there were credenzas
5 and cabinets. Were those pull-out drawer credenzas
6 and cabinets or were they open up cabinets?

7 A I just can't recall the details. I
8 remember him removing documents from a desk and I
9 think a credenza in the back. That's the best I can
10 recall now, two years down the road.

11 Q Were you able to see into the drawers of
12 the credenza after he removed the documents to see if
13 everything had been removed?

14 A No.

15 Q Did there come a point that the briefcase
16 was look at?

17 A Yes.

18 Q Can you remember what the briefcase looked
19 like?

20 A I am not too good on colors. The best I
21 can recall, it was a black briefcase. As best I can
22 recall, the briefcase was down on the floor by the

1 credenza. He then picked it up and began to remove
2 documents from the briefcase in essentially the same
3 fashion as he removed documents from the desk and
4 credenza, made the same type of decision as to those
5 documents.

6 Q Now when he picked it up, did he put it on
7 the desk?

8 A I am not sure what he did. The best I can
9 answer that, maybe he did. I just simply can't
10 recall. I remember him removing documents from the
11 briefcase. Whether he had it in his lap, the
12 desktop, the credenza, I'm sorry, I don't recall.

13 Q Did you look into the briefcase?

14 A No.

15 Q Do you remember him looking into the
16 briefcase as he removed the documents?

17 A Yes.

18 Q What did he say about the briefcase as he
19 was going through it?

20 A I don't specifically recall. I recall him
21 very generally saying this is Vince's briefcase so he
22 was going to include those documents, review of those

1 documents in the same fashion as he would review the
2 other documents.

3 Q Did he at any point offer to show the
4 people, the assembled law enforcement people, what
5 was in the briefcase?

6 A No, he didn't.

7 Q Do you remember an incident where one of
8 the FBI agents stood up?

9 A Yes.

10 Q Tell us about that.

11 A As best I can recall, it was Agent Salter;
12 Scott Salter, I believe his name was. He did stand
13 up, oh, I guess, maybe 15, 20 minutes into the search
14 and Cliff Sloan said something to the effect you are
15 not standing to get a look at the documents, are
16 you? And Salter said no, he wasn't, and sat back
17 down.

18 Q Did Mr. Margolis say anything at that
19 point?

20 A Not that I recall at that point, no.

21 Q Was that interchange a testy interchange or
22 was it a joking interchange?

1 A I think it was reasonably testy under the
2 circumstances. I don't think it was a joke. I mean,
3 they were not screaming and yelling at each other,
4 but certainly my impression is that Sloan didn't want
5 him to stand up.

6 Q Was there a computer in Mr. Foster's
7 office?

8 A Yes, there was.

9 Q Did you or Mr. Margolis ask to have it
10 turned on?

11 A Yes, I asked to have it turned on.

12 Q Why?

13 A I thought there might be some information
14 on there, similarly there might possibly be a note on
15 there. Mr. Nussbaum was conducting the search of the
16 office, I thought that would be a relevant thing to
17 take a look at.

18 Q When you asked to have it turned on, what
19 did you say?

20 A He said no, he wouldn't do that because
21 there might be -- actually two reasons; he said there
22 might be privileged material on there that he didn't

1 want us to see, and he said, well, he didn't think
2 that Vince used his computer very much anyway and it
3 would be unlikely there would be anything on there.
4 So he rejected my idea that he turn it on.

5 Q Did he say anything about disks that might
6 be stored anywhere?

7 A I don't recall him saying anything.

8 Q Did the subject come up?

9 A I don't recall that. I doubt if it did
10 since he said Vince -- I recall him saying Vince
11 rarely used his computer.

12 Q Did he indicate that someone would examine
13 the contents of the computer after you left?

14 A Yes. I think I just indicated that. He
15 said someone would after we left, yes.

16 Q Do you have a security clearance?

17 A Yes.

18 Q I am not going to ask you how high it goes
19 but let me ask you, does it go above top secret?

20 A I don't think -- I don't think it does. I
21 think it's top secret. The stuff I have done at the
22 Department, I have rarely had need for a security

1 clearance. I think it's top secret. I think that's
2 what normal line attorneys have. I don't have
3 anything above that.

4 Q Do you know whether Mr. Margolis has a
5 higher clearance?

6 A I don't know.

7 Q What else do you recall, other than what
8 you have told us about here, about the circumstances
9 of this review by Mr. Nussbaum in Mr. Foster's
10 office?

11 A I think I have covered it the best I can
12 recall after two years.

13 Q Is it your belief that Mr. Nussbaum's
14 search was under the supervision of the Department of
15 Justice lawyers who were present?

16 A No, not under his supervision.

17 Q During the search do you believe there were
18 any other documents that were being looked at?

19 A No.

20 Q Is it fair to say --

21 A Let me back up. Let me back up just a
22 minute. Once in a while he described something that

1 was being worked on by other attorneys in the
2 office. I recall one or two occasions in which he
3 said something about this is an executive order that
4 somebody was working on, something to that effect.

5 I guess you would say I knew the general
6 subject of some things that he said were going to be
7 worked on by other attorneys in the office. For
8 example, since I knew the names of other attorneys in
9 the office, certain things would click that, oh, yes,
10 that would be reasonable that that individual would
11 be assigned this type of work.

12 Q That related to the documents which will be
13 worked on in the office and would be parceled out to
14 other attorneys?

15 A To other counsel in the White House
16 counsel's office.

17 Q To other items that were personal to
18 Mr. Foster or personal to the President or personal
19 to the First Lady, did he in any way characterize
20 those documents, other than to say that they were
21 personal?

22 A No, he didn't.

80

1 Q Based on the few descriptions that he gave
2 you during the course of this procedure, were you in
3 any position to make a request or argue that specific
4 documents ought to be shown to you?

5 A We weren't in a position to make that
6 request because that was not within the ground rules
7 that Bernie had set down.

8 At one point, in addition to my asking
9 about the computer, I asked that he look at some
0 writing on the back of a yellow legal pad on the
1 cardboard backing. He was looking at the legal pad
2 and I could see writing in the back of it. I asked
3 him to look at that and he did.

4 Q Did he tell you what the writing was?

5 A He said it had to do with some, best I can
6 recall, some personal notes about an airline schedule
7 or something like that.

8 Q Was there anything else, any other occasion
9 you can remember him giving you any information about
0 writing, other than what we have discussed?

1 A Not that I can recall, no.

2 Q Is it fair to say you were not -- you were

1 not in a position to know enough about the documents
2 that were being looked at to know what you might
3 think was relevant to your investigation?

4 A Yes. We just really didn't have a chance
5 to see the documents to determine what they were.

6 Q What happened after Mr. Nussbaum completed
7 the process of reviewing the documents?

8 A Well, we left the office. The whole group
9 stood up and left.

10 Q Now, when that happened, where were the
11 documents? Were they in three piles?

12 A As best I can recall, yes, they were on
13 three piles in Vince's desk.

14 Q What, if anything, did Mr. Nussbaum say at
15 that point, if anything, about how he was going to
16 dispose of or distribute the documents?

17 A Like I indicated to you, he was going to
18 distribute the pile of things that were personal to
19 Vince Foster to the family's personal attorney. He
20 was going to distribute the things that he and Vince
21 were working on, the personal legal matters of the
22 President and the First Lady, to their personal

1 attorney. The remaining things were relevant --
2 matters being worked on by the White House counsel
3 and they were going distributed to other lawyers on
4 the White House counsel's staff.

5 I don't recall any specific discussion of
6 exactly when, in relation to that time, leaving the
7 meeting, these things were going to be done.

8 Q Were any of Mr. Foster's personal items
9 given to his personal lawyer on the spot?

10 A I don't recall specifically. There may
11 have been. There might have been some personal
12 things like pictures and things that his lawyer was
13 given, yes. I would say probably, yes, but again, I
14 am not absolutely positive.

15 Q Did Mr. Nussbaum say that any of the
16 documents were going to be given to the Park Police,
17 the FBI or you?

18 A I don't think so, no.

19 Q So your understanding, when you left, was
20 that you were never going to see those documents?

21 A Yes, that was my understanding, that they
22 had been divided up into these three categories and

1 they were going to be handed out, just as I
2 described.

3 Q As you were leaving, did Mr. Margolis
4 request Mr. Nussbaum to keep the room secure?

5 A I don't recall what he asked him.

6 Q Do you remember him indicating to
7 Mr. Nussbaum that he would like to have the room
8 continue to be locked?

9 A I just don't recall what he said.

10 Q Do you remember whether Mr. Nussbaum said
11 he wasn't going to secure the room any further?

12 A I just don't recall, I'm sorry.

13 Q I am going to show you, by the way, Exhibit
14 F151 and ask you if you recognize that.

15 (Exhibit F151 identified.)

16 THE WITNESS: Yes. I recognize that. This
17 is the list of people who were at the meeting on
18 Wednesday afternoon the 21st.

19 BY MR. CHERTOFF:

20 Q Kind of like a sign-in sheet?

21 A Yes. You could characterize it as that.

22 Just a meeting of like, lots of times meetings start

1 with circulating a list of people present with their
2 phone numbers around the room, and that's what we
3 were asked to do.

4 As I say, this is a meeting of -- this is a
5 group here on Wednesday the 21st.

6 Q Did Mr. Nussbaum, as he was going through
7 the documents, either himself or through one of his
8 two associate counsel, keep any kind of written
9 record of the documents, or an inventory?

10 A I don't recall Bernie doing that. I just
11 don't recall what they did.

12 Q Were they Bates stamping the documents with
13 one of these number stampers?

14 A As I say, I just don't recall specifically
15 what he did, other than dividing them up into these
16 three categories.

17 Q Did he promise to provide him an inventory
18 of any kind or a log?

19 A I just don't recall at this point.

20 Q During the discussion with Mr. Nussbaum
21 during the course of the 22nd, with Mr. Margolis, did
22 Mr. Margolis say something about what he would do if

1 this was IBM or Xerox?

2 A Near the end of the meeting he did, yes.

3 Q Which meeting, the one where they were
4 actually going through the documents, or the one in
5 the morning?

6 A No, it was the one in the -- it was the
7 afternoon, after the search had been over.

8 Q What did he say?

9 A He said something -- I think he was halfway
10 joking. He said, you know, if this had been IBM or
11 Xerox, I might have been able to get a grand jury
12 subpoena.

13 Q What did Mr. Nussbaum say?

14 A I am not sure what he said. He said
15 something, but I just simply don't recall at this
16 point.

17 Q Do you remember Mr. Margolis saying, at
18 some point in the morning of that day July 22, why
19 don't you just send us home, Bernie, and mail us the
20 results of your inventory or your search?

21 A I don't recall him saying that, but he
22 might well have.

1 Q Did Bernie Nussbaum say, at some point
2 during this day, that he understood that the presence
3 of the Department lawyers at this was just for show?

4 A I don't think Bernie said that, no.

5 Q Did David say that?

6 A I think it was something to the effect that
7 it was largely for appearances's sake; that we should
8 be involved in reviewing the documents. I think
9 that's what David said, yes.

10 Q After you had gotten a definitive decision
11 from Mr. Nussbaum that he was not going to let you
12 see any of the documents that he was reviewing, why
13 did you and Mr. Margolis stay?

14 A Okay. What point do you consider getting
15 the definitive decision?

16 Q Well, let me ask you: At what point did
17 you consider it to be a definitive decision?

18 A At that point I considered, when we went
19 into the room, the early afternoon, after we had
20 lunch, that was, to me, when we got the definitive
21 decision.

22 Q Why did you stay?

1 A I thought we were better off to stay and
2 get whatever information we could rather than
3 leaving. That seemed, if there had been a note, I
4 thought it would have been a good idea to be aware of
5 that at that time. There was really no opportunity
6 to discuss that between Margolis and myself, why we
7 stayed. We just simply did.

8 Q After you left, did you and Mr. Margolis
9 have any discussion about what had just occurred?

10 A I am sure we had a discussion. I don't
11 recall the exact words of what we said.

12 Q Was he angry?

13 A He was not pleased at the way events had
14 transpired, yes. He really gets angry.

15 Q During the course of that day or
16 afterwards, did you have any -- did you come to learn
17 about the way in which the interviews had been
18 conducted of White House witnesses that day?

19 A I don't recall how that was done.

20 Q Do you remember any complaining about the
21 fact that the White House associate counsels had sat
22 in the interviews with people from the counsel's

1 office staff when they were being interviewed?

2 A I think I remember hearing about that, but
3 I was not directly involved in any conversation with
4 Park Policemen to that effect.

5 Q What did you hear about it?

6 A I think David and I at some point -- at
7 some point after the search, and I can't recall when,
8 I think we talked about that happening, that the
9 White House -- that the Park Police had been told
10 that White House counsel wanted to sit in on
11 interviews with White House staff.

12 Q What was the discussion between you and
13 Mr. Margolis about this?

14 MR. FISHMAN: I am going to object to
15 that. I don't see how conversations between
16 Mr. Adams and Mr. Margolis about that is not outside
17 the bounds of the matters we've previously discussed,
18 is not outside the bounds, as to deliberative and
19 other conversations that took place between
20 prosecutors at the Department of Justice.

21 BY MR. CHERTOFF:

22 Q Is this a discussion you were having after

1 the fact, after the fact of the interviews?

2 A It was sometime after the fact. I can't
3 recall when. I can't recall if it was that afternoon
4 or subsequently.

5 Q Was it your opinion that it was correct
6 procedure to have the associate counsel from the
7 White House sitting in on these interviews?

8 A That's --

9 MR. FISHMAN: I will object. I will object
10 to that as well. I don't think it's appropriate to
11 ask Department prosecutors to comment on the
12 appropriateness of investigative techniques in this
13 context.

14 MR. CHERTOFF: Are you instructing the
15 witness not to answer?

16 MR. FISHMAN: Can we go off the record for
17 a second?

18 MR. CHERTOFF: You have made your position
19 clear. I don't want to spend a lot of time off the
20 record. Unless you think there's a useful way I can
21 get the answer, why don't we just get the instruction
22 on the record and move on.

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1 MR. FISHMAN: I would like to find out what
2 the purpose of the question is.

3 MR. CHERTOFF: All right. Let's go off
4 the record.

5 (Discussion off the record.)

6 MR. BEN-VENISTE: I think this is a good
7 time to take a break.

8 (Recess.)

9 BY MR. CHERTOFF:

10 Q The question was: What was the discussion
11 you had with Mr. Margolis about the manner in which
12 the associate counsel participated and sat in on
13 interviews of members of the White House counsel's
14 staff on July 22 concerning the Foster death? What
15 was that conversation?

16 A All right. Can you repeat the question
17 again, please.

18 (The reporter read the record as requested.)

19 THE WITNESS: I don't recall if I even had
20 such a conversation with Mr. Margolis about that.

21 BY MR. CHERTOFF:

22 Q Did Mr. Margolis express a view about the

1 fact that White House counsels had sat in on
2 interviews with the White House counsel staff?

3 A I simply don't recall at this point in
4 time.

5 Q Did you have an opinion?

6 A In general I have an opinion about people
7 being -- people who might be themselves witnesses
8 sitting in on interviews with other witnesses.

9 Q What is that opinion?

10 MR. FISHMAN: I am going to --

11 THE WITNESS: I just don't want to
12 speculate. I thought I was here as a fact witness
13 for what was going on -- what I had seen and observed
14 over there on those dates in July '93. I just don't
15 want to speculate or offer an opinion on that.

16 BY MR. CHERTOFF:

17 Q Let me leave it like this then: Would you
18 agree with me that it's not a -- it's not a practice
19 you would follow, to have one potential witness
20 sitting in as counsel to another potential witness in
21 an interview?

22 MR. FISHMAN: Again, I am going to object

1 to that and I don't believe that that is an
2 appropriate opinion question for this witness in this
3 context.

4 MR. CHERTOFF: So you are instructing the
5 witness not to answer?

6 THE WITNESS: I would rather not answer
7 myself.

8 MR. CHERTOFF: I understand but I do want
9 to get some sense or some evaluation of this
10 practice. It's something that other witnesses offer
11 opinions on in depositions. I am not going to spend
12 a lot of time on it, but I am going to ask. If you
13 want to instruct him not to answer, instruct him and
14 let's move on.

15 MR. FISHMAN: What I would like to know is
16 the purpose for which that question is being asked of
17 this witness and how that fits in within the scope of
18 the committee's inquiry.

19 MR. CHERTOFF: It's relevant to the
20 committee's inquiry because the committee has to
21 evaluate, among other things, if the White House
22 permitted appropriate practices and investigative

1 procedures to go forward with the matter, or whether
2 the White House overrode and intervened with those
3 practices and procedures.

4 The committee might also be interested in
5 what an experienced lawyer at the Department thinks
6 about those practices and procedures.

7 MR. FISHMAN: I understand but that's not
8 my understanding of why this particular witness was
9 called.

10 MR. CHERTOFF: I don't think we generally
11 lay down particular terms or agreements about why we
12 are going to call a witness. As long as it's within
13 the scope of the resolution and, you know, relates
14 obviously to the subject matter of the first set of
15 hearings, which is what we have indicated we are
16 going to get into, I don't know that there's any
17 other limitation. But I don't think there's a lot of
18 usefulness in arguing about it.

19 If you want to instruct the witness not to
20 answer, do it and let's move on.

21 MR. FISHMAN: Under these circumstances,
22 subject to further discussion, I don't think it's

1 appropriate for him to answer that particular
2 question at this time, given the discussions I have
3 had with you and other members of the staff and with
4 the letter that I wrote discussing what our
5 understanding was of the purpose for which the
6 witness was called.

7 MR. CHERTOFF: Put on the record whatever
8 the basis for your instruction is. Don't make
9 reference to things that are not in the record. If
10 you have a basis, you believe you are going to
11 instruct this witness not to answer the question, put
12 it on the record.

13 MR. FISHMAN: Can I have the question read
14 back one more time.

15 (The reporter read the record as requested.)

16 MR. BEN-VENISTE: Let me see if I could
17 interject something that might make this more
18 focused. I wonder whether you could answer a
19 question, on the basis of your experience, whether
20 you would think it would be appropriate in the
21 investigation of a probable suicide to have more than
22 one person present in the interrogation of another

1 witness who was familiar with the individual who was
2 the subject of the suicide, that is the deceased, if
3 you know?

4 MR. CHERTOFF: Let's do this.

5 Mr. Ben-Veniste is going to have an opportunity to
6 ask questions. I think Mr. Ben-Veniste's question
7 and mine still pose the same issue. If you have a
8 problem with having the witness express his views
9 about having one potential witness sitting in on the
10 interview of another potential witness, then just
11 tell us what the basis of it is, and make your
12 instruction and let's move on.

13 MR. BEN-VENISTE: I think your question is
14 unfair because it doesn't include any sort of
15 parameter as to the type of interview that is going
16 on.

17 MR. CHERTOFF: If that's the objection, I
18 will reform the question.

19 MR. BEN-VENISTE: If he has an opinion with
20 respect to a suicide investigation and whether two
21 people who are familiar with the deceased can be
22 interviewed at the same time, or one in the presence

1 of another, then that would be fine and would be
2 somewhat relevant to our inquiry.

3 BY MR. CHERTOFF:

4 Q I will be happy to reformulate it this
5 way: In this case, not just any investigation, but
6 in this particular investigation, is it your opinion
7 that it was a good practice to have one potential
8 witness sitting in the interview of another potential
9 witness, as an attorney?

10 A I am not going to answer that. I really
11 would rather not give an opinion on that stuff. I
12 will answer, try to be cooperative, of the facts, but
13 I really don't want to get into giving opinions on
14 things like that, when I don't -- I was not involved
15 in that. I just don't think it's appropriate that I
16 have to give an opinion on that subject.

17 Q Was that -- was the wisdom of that practice
18 discussed with Mr. Margolis?

19 A As I said earlier, I think I said, I don't
20 recall any discussion with Mr. Margolis about that.

21 Q Well, you have indicated you have an
22 opinion about it that you previously testified to. I

1 am just -- what is the reason you are reluctant to
2 give it?

3 A I think I indicated earlier I had an
4 opinion about the general practice of interviewing,
5 having present, at the interview of one witness,
6 another person who might be a witness in that
7 investigation. I have an opinion about the wisdom of
8 that.

9 But I guess I keep coming back to the fact
10 that I thought I was here as a fact witness as to
11 what happened at the White House on the 21st and 22nd
12 of July, '93. And that's what I would like to
13 confine my testimony to.

14 Q I understand that. But whether it be
15 opinion that you have or the more specific opinion in
16 the case, and I want to dwell on it, but would you
17 agree with me that it is not a wise practice or a
18 good practice, investigative practice, in the case
19 where you have two potential witnesses, to have one
20 sitting in the interview of another as the latter's
21 attorney, just yes or no.

22 And if you want to give him your

1 instruction, give him your instruction.

2 MR. FISHMAN: Let me have a moment.

3 MR. CHERTOFF: Take a moment.

4 (Witness conferred with counsel.)

5 MR. CHERTOFF: May I have the question read
6 back.

7 (The reporter read the record as requested.)

8 THE WITNESS: I have an opinion on that
9 subject. But like I said before, I just don't think
10 it's appropriate. It's not my understanding of what
11 you wanted me to come up here and testify about and I
12 don't see why I should be required to give you my
13 opinion on that. I told you I don't know what
14 Margolis -- as I said, I don't know, I don't recall
15 talking with Margolis about those interviews, so I
16 don't really have any facts that I can give to you.

17 MR. CHERTOFF: You are instructing the
18 witness not to answer?

19 MR. FISHMAN: No, I am not. He has
20 indicated the understanding that he got from me based
21 upon my conversations with you and your colleagues on
22 the staff. Under those circumstances, he has

1 indicated his own unwillingness to answer that
2 question, to give his opinion as a general matter
3 since he is not familiar with the underlying facts.

4 I am not instructing him not to answer the
5 question. That is the witness's own view.

6 BY MR. CHERTOFF:

7 Q After you left --

8 MR. BEN-VENISTE: Could I merely state for
9 the record that I was not a party nor do I believe
10 that anybody on the Democratic staff was a party to
11 these conversations.

12 MR. CHERTOFF: Since this is becoming an
13 issue, Mr. Fishman, why don't you indicate what you
14 understand of the tremendous pivotal conversations
15 with the staff about the basis on which he is being
16 called.

17 MR. FISHMAN: I don't know how you
18 characterize it as a tremendous pivotal conversation,
19 but as I expressed in conversations, at least one
20 conversation with you and Mr. Giuffra and at least
21 one other conversation with Mr. Giuffra and one
22 conversation with Mr. Kravitz.

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1 MR. CHERTOFF: Who's a member of the
2 Democratic staff.

3 MR. FISHMAN: Yes.

4 MR. BEN-VENISTE: I was unaware of that.
5 If the Attorney General and the chairman of the
6 Judiciary Committee have had some correspondence
7 dealing with the appropriate scope of Congressional
8 inquiries of prosecutors and investigators regarding
9 their -- the investigative and prosecutive decisions
10 they make. And as a result it has been -- and that
11 comes on the heels of a long-standing Department of
12 Justice policy for many years, for many
13 administrations -- that subjecting prosecutors and
14 agents to inquiry about investigative decisions, and
15 the investigative policies that they follow, can have
16 an adverse, chilling effect on law enforcement.

17 As a result, when the committee requested
18 that the Department make available certain
19 prosecutors and FBI agents for the purposes of these
20 hearings in deposition, I raised this issue with the
21 staff to ensure that we understood the appropriate
22 contours of the testimony so that if there were such

1 issues raised, we could raise them outside of the
2 context of the deposition beforehand, so we would not
3 have to engage in colloquy on the record or off the
4 record in depositions.

5 MR. BEN-VENISTE: I am satisfied with that.

6 MR. CHERTOFF: I am going to put on the
7 record my understanding. My understanding is these
8 conversations were directed to investigators, FBI
9 agents, and line prosecutors, that this doesn't apply
10 to high level people in the Department of Justice; in
11 my view, members of the office of the Deputy Attorney
12 General are such people. Those people are frequently
13 called to testify on the Hill.

14 I don't believe we have encountered this
15 problem with any of the agents, FBI agents who
16 testified or people who've testified in a line sense,
17 but I do not understand it to be or has not been in a
18 position in the past that people in the Department,
19 senior officials in the Department cannot testify
20 about matters of policy.

21 MR. FISHMAN: I am not taking that position
22 and to the extent that's how you characterized it

1 here, that is not a correct understanding. However,
2 it was my understanding the purpose for which
3 Mr. Adams and the other people who were scheduled to
4 testify about these matters were asked, was for
5 essentially a factual recitation of what had
6 occurred.

7 If that's not the purpose for which they
8 are being called, I don't have -- I don't necessarily
9 have an objection to that but we would like to be
10 told ahead of time what the scope of inquiry is going
11 to be so we can have these discussions ahead of time
12 and determine whether we are going to have any
13 objections or not.

14 Mr. Adams himself personally has evinced an
15 unwillingness to comment on what practices were
16 followed, what witness practices were followed with
17 the Park Police because he is not familiar with them,
18 has had no conversations that he can recall about
19 them, and under those circumstances, has evinced an
20 unwillingness to express an opinion about them. I
21 cannot instruct him not to do that, I can say that
22 the decision was made without knowledge of our

1 conversation, but that he has expressed his
2 reluctance.

3 MR. CHERTOFF: I am going to respect
4 Mr. Adams's wish.

5 MR. FISHMAN: Thank you.

6 MR. CHERTOFF: I think to avoid
7 misunderstanding in the future when we deal with
8 people who are high level members of the Department,
9 we should have a conversation.

10 MR. BEN-VENISTE: Could we save that
11 discussion for later?

12 MR. CHERTOFF: Since we are going to close
13 off this part of the record, we will discuss that
14 issue.

15 MR. FISHMAN: Fine, I have no problem with
16 that.

17 BY MR. CHERTOFF:

18 Q When you came out of the July 22 procedure
19 held by Mr. Nussbaum in Mr. Foster's office, where
20 did you and Mr. Margolis go?

21 A We went back to our office in the Justice
22 Department.

1 Q Did you have further conversation with the
2 Park Police and the FBI?

3 A As best I can recall, we were given a ride
4 back in either a vehicle of the Park Police or FBI, I
5 can't recall which one, but we -- we didn't go by
6 taxi but a vehicle of the law enforcement -- I can't
7 recall whether it was FBI or Park Police.

8 Q Did you discuss what happened in
9 Mr. Foster's office?

10 A I am sure we did. I can't recall who said
11 what.

12 Q Did you go then report to Mr. Heymann?

13 A I did not.

14 Q Did Mr. Margolis?

15 A It's my understanding Mr. Margolis did.

16 Q Do you know what Mr. Margolis told
17 Mr. Heymann?

18 A Well, it's obviously hearsay, but I
19 understand that he briefed Phil on the way the search
20 of the office had gone.

21 Q What was Mr. Heymann's reaction?

22 A Well, I wasn't present so I can't give you

1 his direct reaction.

2 Q What were you told by Mr. Margolis?

3 A That Mr. Heymann was not pleased.

4 Q Did he indicate that Mr. Heymann was going
5 to do anything?

6 A He did, and I have subsequently learned
7 that Mr. Heymann called Bernie Nussbaum and expressed
8 his displeasure.

9 Q Was that call made that evening?

10 A Hearsay, you know, hearsay but it's my
11 understanding it was made that evening, yes.

12 Q Did you learn this from Mr. Margolis?

13 A I must have, yes. Again, I can't recall a
14 specific conversation, whose office we were in, that
15 sort of thing, but, yes, as best I can recall, I
16 learned that from David.

17 Q Did you do anything else on July 22 after
18 you got back from the White House in relation to the
19 investigation of the Foster death?

20 A I did not, no.

21 Q Did Mr. Margolis?

22 A Well, just like we said, I had the

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1 understanding --

2 Q Other than what you have testified to?

3 A I don't know that he did anything else
4 other than what I just said about discussing this
5 with Phil Heymann.

6 Q Did you on Friday, the next day, which
7 would be the 23rd, did anything occur that you were
8 involved in or participated in at the Department of
9 Justice regarding the Foster death investigation?

10 A Friday the 23rd of July, I was on leave
11 that day. One of the very few days that summer I
12 was. I was not in the office at all.

13 Q What was your understanding as of the close
14 of the day, July 22, about what the status of your
15 participation in any continued investigation was?

16 A I didn't think I would be involved in
17 anything further at that point.

18 Q Did you and Mr. Margolis have the view that
19 basically the Department of Justice was now out of
20 the investigation?

21 A I am not sure what Margolis thought. It
22 was my opinion that I would likely have little

1 further involvement.

2 Q You had no expectation of ever seeing any
3 documents in Mr. Foster's office?

4 A I am not sure that I had -- I am not sure
5 that what I thought was even that specifically
6 focused. I just thought that my participation in the
7 Foster suicide investigation was over and that I
8 would likely have no further contact with him.

9 Q Did you have occasion to read a Washington
10 Post report on Friday, July 23, that indicated in
11 substance that the search of Mr. Nussbaum had been
12 "under the supervision" of Justice Department
13 lawyers?

14 A Yes, I recall reading that.

15 Q Did you read that while you were on leave?

16 A Read it probably the morning I was on
17 leave. We went up to Philadelphia that day. We
18 didn't leave until the middle of the morning. I am
19 quite certain I picked up the paper in my driveway
20 and read that article almost immediately.

21 Q Did you have a reaction to the article?

22 A Well, my reaction to the article was that

1 that was simply -- the part of the article said that
2 it was "under the supervision of"?

3 Q Yes.

4 A Yes, I had a reaction to it. I thought
5 that was not so.

6 Q Did you ever discuss that with anybody at
7 the Department?

8 A I am sure I discussed the article with
9 David and possibly other people in the office, but,
10 again, the following Monday, which was my first day
11 back in the office, probably Monday, Tuesday.

12 Q What was Mr. Margolis's view of the
13 article?

14 A I don't recall the exact words. All I can
15 say is that I am confident that his reaction was the
16 same as mine, that he didn't think the search was
17 under our supervision either.

18 Q Did you conclude that the characterization
19 of the search was from the White House?

20 A Speculation, but I thought it probably did,
21 yes.

22 Q You later made a note of that in the report

1 that you prepared or the memorandum that you prepared
2 at Mr. Heymann's direction. I am going to show you,
3 just to refresh your memory, F150. I think it's the
4 third from the bottom.

5 A That's exactly what I wrote. I think
6 that's just what I testified to right now.

7 Q Why did you note that in the memoranda,
8 that it was the White House that provided this
9 characterization of the search?

10 A I had been asked to do a memorandum about
11 what had transpired between us and the White House.
12 I considered that observation in mind with those
13 instructions that the Deputy Attorney General had
14 given me.

15 Q You got back on Friday -- on Monday the
16 26th from your leave?

17 A Yes.

18 Q You went into the office?

19 A Yes.

20 Q Did anything happen that day regarding the
21 Foster death investigation?

22 A I don't recall anything happening. I don't

1 recall any involvement I had on Monday the 26th, no.

2 Q What is the next thing that happened that
3 you learned about in connection with the Foster death
4 investigation?

5 A The next thing that I can specifically
6 recall occurred early afternoon of Wednesday the 28th
7 of July. The reason I recall that date exactly is
8 because the 28th of July is my birthday. They were
9 having a small birthday party for me in the deputy's
10 office, the conference room, as is customary for all
11 people in the staff, support staff.

12 At that time, David Margolis informed me
13 that they had found a note.

14 Q What did he tell you about how it had been
15 found?

16 A I think he said that the note had been
17 found in the briefcase that was in the office.

18 Q Did he say when it had been found?

19 A I don't recall when he said it. I was my
20 impression it had probably been found that day
21 before, couple days before, something like that. I
22 don't recall specifically.

1 Q In this conversation did he tell you a time
2 had elapsed from the time that the note was
3 supposedly purportedly found in the briefcase and the
4 time it had been disclosed to the Department of
5 Justice?

6 A I don't recall that. I don't recall that
7 detail at this point.

8 Q What else did he say to you during this
9 conversation, if you can remember?

10 A That's really all I can recall. The
11 conversation during my birthday party was that they
12 found the note in the briefcase.

13 Q Now, did you have any involvement --
14 withdrawn.

15 What is the next thing that you did or
16 happened that you recall in connection with the
17 Foster investigation?

18 A The next thing was a meeting, I think, on
19 Thursday the 29th, with Mr. Collier from the
20 Department of the Interior.

21 Q Now, do you know Mr. Collier's position?

22 A I think he was executive assistant to the

1 Secretary, or something. I think I have that in my
2 notes, which you have in front of you. Can I look at
3 them?

4 Q Yes.

5 A I am sure I had the title right at the
6 time.

7 Q F139 -- well, why don't I give you F150,
8 because I think that has a title.

9 A All right. I characterized him as chief of
10 staff to Secretary of the Interior Bruce Babbitt. I
11 am reasonably confident I had the title right.

12 Q Now, the 28th was your birthday?

13 A Yes.

14 Q Now, on that date, you didn't meet with
15 Mr. Collier on that day, did you?

16 A No, the next day.

17 Q But you heard, or the Justice Department
18 heard from Mr. Collier on the 28th?

19 A I am not sure if we did or not. My first
20 meeting with Mr. Collier was on the 29th.

21 Q Who attended the meeting?

22 A David Margolis and myself and Mr. Collier.

1 Q What was the meeting -- you had the
2 meeting. What was the purpose of the meeting?

3 A Collier wanted to -- Collier had asked for
4 the meeting was my understanding.

5 Q Did you know the subject matter?

6 A Yes, the subject matter, the general
7 subject matter was the way the investigation was
8 being handled by the Park Police. I think it's all
9 very accurately set out in my notes there, as best I
10 can say.

11 Q To help you along, I am going to give you
12 F139 and F140. Are those the notes that you prepared
13 of that meeting?

14 A Yes. Those are the typewritten notes that
15 I prepared of the July 29 meeting with Mr. Collier.

16 Q Did you prepare those from handwritten
17 notes that you took during the meeting?

18 A Yes.

19 Q What did you do with the handwritten notes?

20 A I think I -- well, I kept them. I think I
21 turned them over to somebody. Must have been one of
22 the independent counsels, as I can recall. Are they

1 around somewhere? I guarantee nobody would be able
2 to read them.

3 Q I don't think they were produced to us.

4 MR. FISHMAN: Let's go off the record for a
5 second.

6 (Discussion off the record.)

7 MR. CHERTOFF: I am requesting to see that
8 a search has been done. Perhaps if the notes has
9 been turned over to another agency, I know you have a
10 right to get a copy back for yourselves. Maybe you
11 want to do that and see if you can get it to us.

12 MR. FISHMAN: To the extent they were
13 turned over to another Agency, we undoubtedly have
14 another copy. To the extent we have not provided
15 them, it was obviously inadvertent. If we find them,
16 we will be happy to provide them.

17 MR. CHERTOFF: That's fine.

18 BY MR. CHERTOFF:

19 Q In any case, Mr. Adams, the typewritten
20 notes are accurate reflections of the notes you have
21 written?

22 A Yes.

1 Q Before we get into that, let me show you
2 F149 and F150 which are a narrative description of
3 events before the 29th. When did you prepare the
4 narrative description?

5 A Probably on the 29th or the 30th, it was
6 subsequent to this, as best I can recall.

7 Q So you prepared notes of the meeting on the
8 29th and then later went back and prepared a summary
9 of what had transpired before the 29th?

10 A That's the best I can recall at this time.

11 Q Using the notes to refresh your memory,
12 would you tell us what the conversation was with
13 Mr. Collier on the 29th of July?

14 A Well, the first thing was we had learned
15 about a meeting that had taken place on Wednesday,
16 July 21 at the White House to discuss how the
17 investigation would be handled. That was the first
18 time that either Mr. Margolis or myself had knowledge
19 of that particular meeting taking place.

20 Q Then what was the discussion?

21 A We discussed with Mr. Collier about our
22 involvement, about how on Wednesday the 21st we had

1 gone over the ground rules for the search the next
2 day. At that point, it was our understanding that
3 we, being Margolis and myself, would look at each
4 file to determine the relevance and privilege and how
5 that was -- those rules were subsequently changed the
6 next day by Mr. Nussbaum.

7 Q What was his reaction to that?

8 A I don't specifically recall. The best I
9 can say is he was not terribly surprised. I think he
10 had probably been told of this previously but I don't
11 recall him expressing amazement. I should say, I
12 don't know him well enough, but that's the first and
13 only time I have ever seen him.

14 Q Then what happened?

15 A Well, the next subject of the meeting,
16 according to my notes, was Collier indicated that he
17 had talked to the White House to discuss how the
18 investigation was proceeding by the Park Police.

19 Q By the way, these notes are typewritten,
20 they come from your handwritten notes and those
21 handwritten notes were taken contemporaneous?

22 A At the meeting, yes.

1 Q At the meeting. Okay. What did
2 Mr. Collier say about his conversations at the White
3 House?

4 A He indicated that the White House had said
5 that if there was any foul-up, it had been -- he said
6 the word "screw-up" -- if there was any screw-up,
7 that it was done during the investigation of the Park
8 Police, that they regarded this as being a routine
9 investigation.

10 Q "They" being the White House?

11 A They being the White House, yes.

12 Q Who expressed that view in the White
13 House. Who were you told expressed that view?

14 A I don't have an exact recollection now, but
15 according to my notes, he said he received calls from
16 a man named Roy Neel who was identified as McLarty's
17 deputy.

18 Q Was Mr. Collier annoyed or upset about the
19 fact that the White House was indicating that it was
20 the Park Police's fault?

21 A I'm sorry, read the question again.

22 (The reporter read the record as requested.)

1 THE WITNESS: Yes, he was somewhat annoyed
2 at that, yes.

3 BY MR. CHERTOFF:

4 Q What else was discussed at the meeting?

5 A Well, again I have in my notes here, it was
6 probably at this point of the meeting that we
7 discussed the briefcase and how Mr. Nussbaum had
8 searched the briefcase.

9 Q And what did you and Mr. Margolis say about
10 the way that briefcase was handled at the meeting?

11 A Well, we said that there was no way that we
12 could have seen the contents in the briefcase and
13 that Bernie was holding on to the briefcase the same
14 way he -- well, that his examination of the briefcase
15 was the same as the examination of the rest of the
16 documents. We really couldn't see what was in it.

17 Q Did you, someone, you or Mr. Margolis use
18 the phrase, in substance, "you would have had to use
19 force to get it away from them"?

20 A Yes, I think I used that in a rather
21 jocular joking sort of tone; I never considered that
22 we would do that.

1 Q But the point was, when you were talking to
2 Mr. Collier, that Mr. Nussbaum was not amenable on
3 July 22 to letting the Park Police or any other law
4 enforcement officer look into that briefcase?

5 A Yes, that was the gist of it.

6 Q What was the next conversation?

7 A Again, I have to refer to my notes because
8 I don't have any independent recollection. But the
9 discussion at that point was that the investigation
10 should be taken away from the -- Collier's suggestion
11 that the investigation be taken away from the Park
12 Police and given to the FBI because the thought was
13 that the Park Police were unable to deal adequately
14 with high level White House officials, and they
15 thought the FBI might be a little more successful in
16 that effort.

17 Q When he said "unable," did he indicate that
18 he thought that the Park Police were good, competent
19 investigators?

20 A Yes, he did. He thought they were good,
21 competent investigators on certain subjects. I think
22 he talked about -- again I was referring to my

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1 notes -- but he talked about a stabbing in a national
2 park. His concern was -- this was just my impression
3 at this point because I can't recall the exact
4 words -- his concern was to the effect that given the
5 sensitivity of dealing with high level White House
6 officials that they might not be able to do that as
7 well as FBI personnel would.

8 Q Did he indicate that he was concerned that
9 the Park Police were somewhat intimidated by the
10 White House officials?

11 A I don't recall him using the word
12 "intimidated" but that was my -- at this point, as
13 best I can say that was my general impression of his
14 concern about the Park Police.

15 Q Now, as of this point in time, the 29th,
16 the FBI was no longer working on the investigation,
17 to your knowledge; correct?

18 A I am not absolutely positive of that. As I
19 indicated, my involvement with this was very, very
20 limited after the 22nd. I can't tell you at this
21 point which agency was in and which was out. Others
22 possibly could. Possibly Margolis could but I cannot

1 at this point.

2 Q In your notes, when you make note of
3 Collier's recommendation that the investigation be
4 taken away from the Park Police, Park Police can't
5 handle this in his opinion both because they can't
6 handle the high level White House people, you write
7 in parentheses "then who could." I take it that
8 parenthetical is your comment to yourself?

9 A Yes.

10 Q What did you mean by that?

11 A It's obviously difficult dealing with high
12 level White House people. They have a certain amount
13 of clout, certain amount of rank and it's just
14 planning -- they have to be treated differently from
15 ordinary citizens.

16 Q Was it your impression that on the 21st and
17 22nd the White House personnel were exercising their
18 clout in dealing with the Department of Justice?

19 A They certainly -- Bernie was using his rank
20 at that point to set the ground rules of that
21 search. Yes, he was.

22 Q It then goes on to say, he said we have a

1 window here to do something before the press forces
2 us to do it with inevitable stories about the
3 investigation being botched up because the note
4 wasn't found.

5 You are spelling "note" n-o-t, but I assume
6 that's a typo?

7 A I can tell you this was done hastily. I
8 didn't even do a spell check which indicates to me
9 that was done in extreme haste, probably with a
10 desire to get on to other unrelated matters at the
11 time.

12 Yes, the word, the last word in the first
13 page should be "note," yes.

14 Q What does Mr. Collier mean by that, or what
15 does he say about that?

16 A Rephrase the question. I'm sorry, reread
17 it back.

18 Q I want to rephrase it actually. My
19 question is: What do you recall Mr. Collier saying
20 in connection with that topic or that last sentence
21 we just read?

22 A The last sentence of my notes --

1 Q Item 1. What was the discussion

2 Mr. Collier had in connection with that.

3 A He said it was a window. What he was

4 saying was it was a window of opportunity to put

5 in -- put the FBI in the investigation instead of the

6 Park Police. That was what he was saying. That was

7 his point at the meeting, was that was his goal. It

8 was certainly my understanding was his goal to make

9 that happen, get the Park Police out and get the FBI

10 in.

11 Q Now, the next item says "if we don't do the

12 proceeding, do not allow the White House to continue

13 to call this a routine suicide investigation."

14 What was Mr. Collier's discussion

15 concerning that point in this meeting?

16 A I don't specifically recall. I guess he

17 was saying that -- I don't know how -- at this

18 juncture, I just can't recall how he thought we could

19 do that, but he was expressing his opposition to

20 allowing the White House to call it a routine

21 investigation.

22 Q Why was he opposed to that?

1 A I can't really go into his thought

2 processes but I assume he was opposed to it because

3 his interest was in getting the Park Police out of

4 the investigation, as best I can recall.

5 Q But what did he say about -- I mean, what

6 was the discussion concerning whether or not this was

7 a routine suicide investigation?

8 A I don't recall the exact words. The best I

9 can give you is, you know, my impression at this

10 point. That impression was that a suicide

11 investigation of a very high level White House

12 official is not a routine suicide investigation.

13 Q Was that the general agreement among all

14 the people at this meeting?

15 A I don't specifically recall -- excuse me --

16 what Margolis said. And I said, I am sure we

17 didn't -- I won't speculate on what David thought,

18 but I would agree with that, that is not routine

19 investigation.

20 Q Now, in item 3, the next one, it says

21 "his," and I assume it refers to Collier.

22 A Yes.

1 Q "His underlying thoughts are that this
2 investigation was controlled by Rose Law Firm persons
3 who had, as their first concern, protecting the name
4 and memory of Foster."

5 What was the discussion you had in this
6 meeting concerning that?

7 A That probably refers back to the very first
8 item on the first page where we learned about this
9 meeting on July 21, Wednesday, July 21, between David
10 Watkins, Bill Kennedy, Web Hubbell, James Hamilton,
11 Bernie Nussbaum and to people from the Park Police.

12 Q What was said about the motivation of Rose
13 Law Firm people in handling this?

14 A Well, what Collier said was that the
15 overriding interest of these people was to protect
16 the name and memory of Vince Foster.

17 Q Did Mr. Nussbaum or Mr. Heymann or you say
18 anything about that?

19 A I'm sorry. Did Mr. Nussbaum --

20 Q I'm sorry. Mr. Heymann, Mr. Margolis or
21 you say anything about that?

22 A I don't recall what we said. I am sure we

1 made some comment on it. I don't recall what was
2 said.

3 Q At the bottom of the memo, it says "note
4 found as being pieced together by Park Police lab.
5 Collier has a suspicion, which he said was not backed
6 by evidence, that may have been torn by someone other
7 than Foster."

8 What discussion did you have about that?

9 A I can't recall at this point, other than I
10 put it down in my handwritten notes and then typed it
11 up in my written version. He must have just said,
12 probably in about those words, that that was his
13 suspicion.

14 Q Did anyone else there express that view?

15 A I don't recall what either David or I said.

16 Q Did you have that suspicion?

17 A I am not really -- I am not really sure
18 what to think about the note, whether it was torn up
19 by someone else or not. I don't recall what I
20 thought as of now. I don't recall what I thought at
21 that particular time.

22 Q When that point was brought up, was it

1 brought up as part of Mr. Collier's argument that the
2 FBI was to get into the case?

3 A I am just not sure how the meeting was
4 structured. I just can't give an honest answer, a
5 truthful answer to that because I simply don't
6 recall.

7 Q What was the resolution of the meeting?

8 A The resolution of the meeting was that --
9 well, we didn't make any decisions.

10 While we didn't make any decisions on the
11 spot, probably, I just don't recall this happening,
12 at least I don't recall being part of it. Probably,
13 David Margolis probably briefed Phil Heymann on the
14 meeting. He may well have shown him my notes too.

15 Q Did you and Mr. Margolis, at some point
16 after the meeting, talk about how the note was torn
17 up after Mr. Foster's debt?

18 A We had speculated about that on a number of
19 occasions, yes.

20 Q Did you believe that that is a matter that
21 the FBI would be called in to investigate?

22 A I don't -- as I said before, my involvement

1 was very limited after that. I really didn't concern
2 myself with whether the FBI should be called in or
3 not. It was more Margolis's call at the time. I was
4 working on a number of other things. I was delighted
5 to have someone else making the decision and I really
6 don't have -- didn't feel it necessary to have an
7 opinion then, and I don't have one now either.

8 Q So after this meeting did you have any
9 further involvement with respect to this Foster
0 matter, other than preparing the notes in their
1 reports as memos?

2 A No, other than talk with David about it
3 from time to time, I don't think I had any further
4 involvement in it.

5 Q What were your discussions with David
6 Margolis afterwards?

7 A A lot of discussions about the note, like I
8 just talked about. David had his opinion about the
9 note and talked about that. It's been a long time.
0 Just don't recall much of the details.

1 Q Do you remember what Mr. Margolis's opinion
2 was about the note?

1 A No. Let me think about that. I don't
2 recall exactly what his opinion about the note is.

3 Q In general.

4 A I really can't. At one point I might well
5 have been able to answer the question but I just
6 don't -- since I am not sure what his opinion is
7 right now, I am not able to help.

8 Q Did he believe the note was in the
9 briefcase and had just been overlooked by
10 Mr. Nussbaum, did he express that belief to you?

11 A I am not sure whether he did or not. I
12 think not. Again, it's all just speculation but I
13 don't think -- as best I can recall, David didn't
14 think the note was in the briefcase.

15 Q At the time of July -- the July 22 search?

16 A At the time, yes. At the time of the July
17 22 search.

18 Q Now, was it shortly after this meeting with
19 Mr. Collier that you were asked to prepare the
20 memorandum, the narrative memorandum F149 and F150?

21 A Yes. Well, let me see. Let me be sure I
22 have those numbers right before I answer yes. It was

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1 shortly after that meeting that I was prepared to, or
2 that I was asked to prepare this memorandum which you
3 have labeled F149 and F150, yes.

4 Q Did this instruction also -- was an
5 instruction to prepare a memorandum also given to
6 Mr. Margolis and to other people in the deputy's
7 office?

8 A No. The instruction was given to me to do
9 that.

10 Q Who is Cindy Monaco? At the time, what was
11 her position at the time with all this?

12 A She was a staff member at the office. None
13 of us had titles but it was understood that, based on
14 her age and limited number of years out of law
15 school, she was probably going to be a special
16 assistant to Phil, having some function in that
17 capacity.

18 Q Was she directed to prepare a diary as a
19 kind of running narrative of this?

20 A I don't recall what she was instructed to
21 do.

22 Q Who is Nancy McFadden?

1 A She was at that time and still is in the
2 associate's office, her title was I think deputy
3 associate attorney general.

4 Q How did she come to join the Department?

5 A She is a political appointee. I don't know
6 how she was asked to join the Department.

7 Q Did she come in with Mr. Hubbell?

8 A She works for Mr. Hubbell. I don't know if
9 she had had any contact with him in the past. I
10 don't know that.

11 Q Was Mr. Hubbell involved in any
12 discussions, to your knowledge, about the Foster
13 death investigation during July and August of 1993?

14 A Well, I have in my notes that he was
15 involved in this meeting that took place on Wednesday
16 July 21 at the White House, and I was told that by
17 Collier.

18 Q What about within the Department of
19 Justice, did you either directly learn or did you
20 hear from anybody else that he had participated in
21 any way in discussions in the Department of Justice
22 concerning the Foster death in July and August of

1 '93?

2 A I don't recall hearing that, no.

3 Q Was Nancy McFadden involved in any of those
4 discussions?

5 A Again, she was not involved in any
6 discussions with me, and I don't recall what other --
7 I don't recall anybody else telling me what other
8 discussions she might have been involved in.

9 Q When you prepared what we have listed as
10 F149 and F150, did you send a copy of that to David
11 Margolis?

12 A Yes.

13 Q Did you send a copy to Phil Heymann?

14 A Either I did or David sent a copy to
15 Mr. Heymann.

16 Q Were you then asked to hold on to the
17 memorandum?

18 A Yes.

19 Q And what understanding were you given about
20 why you -- they requested you to hold on to the
21 memorandum?

22 A Let me make that a little clearer, which

1 memorandum, my narrative memorandum?

2 Q Your narrative memorandum, which for the
3 record, I will also mark as F1706 to F1708 and ask
4 you whether this is in fact another copy of your
5 narrative memorandum with a transmittal cover.
6 (Exhibit F1706-F1708 identified.)

7 THE WITNESS: "Hold on to this for now."

8 Yes. That's a routing slip in David Margolis's
9 handwriting telling me to hold on to this memorandum
10 for now.

11 BY MR. CHERTOFF:

12 Q And then regarding that memorandum that you
13 have, which is F1706 to F1708, what was your
14 understanding about why you were to prepare that
15 memorandum in the course of your duties and to hold
16 on to various parts of your duties?

17 A Okay. I was asked to prepare it by Phil
18 Heymann because he wanted a record made of the things
19 that we didn't like that the White House had done
20 with respect to the investigation, and he wanted me
21 to prepare a memo with essentially a listing of those
22 things.

1 Q Was it your understanding he was going to
2 take it further or he just wanted it in case there
3 was a subsequent investigation?

4 A I am not sure exactly why he wanted it. He
5 just told me to do it and I did it.

6 Q And the memorandum, which we have also now
7 identified as F1707 and F1708, was also prepared by
8 you as part of your official duties and kept by you
9 in the course of your performance of your official
10 responsibilities; right?

11 A Right. It was prepared by me and I've kept
12 a copy in my office ever since.

13 Q It was based on your observations and your
14 activities on July 21 through July 28?

15 A Yes.

16 Q Did you work on -- you used to have a moot
17 court for possible media questions for Mr. Heymann?

18 A I had nothing to do with that. I never
19 worked on a moot court with Phil Heymann.

20 Q Did Mr. Margolis ever circulate to you a
21 potential list of media questions concerning the way
22 in which the Foster office inventory was handled?

1 A I don't recall that he did. Possibly did.

2 I simply don't recall now.

3 Q Did he tell you anything about a
4 conversation he had with Mr. Hamilton at some point
5 in early August 1993 concerning the Foster office?

6 A Conversation between Margolis and Hamilton,
7 did he tell me about that?

8 Q Yes.

9 A Again. The best answer I can give you is
10 he may have. I simply don't recall.

11 Q Do you remember anything about such a
12 conversation that occurred in early August?

13 A No. I'm not saying he didn't discuss it
14 with me. I am saying I simply don't recall now.

15 Q Did you -- let me show you what's been
16 marked as F3148. Do you recognize -- it's a
17 newspaper article. Do you recognize the handwriting
18 at the top?

19 (Exhibit F3148 identified.)

20 THE WITNESS: Yes, that's my handwriting.

21 BY MR. CHERTOFF:

22 Q Did you, during the period after your

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1 participation in this search, clip or take pages out
2 of the Department of Justice circulating news clip
3 package that related to the Foster matter?

4 A I think I did, yes.

5 Q Did you keep a file of those?

6 A I think I did for a while, yes.

7 Q Is that piece of paper with your notations
8 from that file?

9 A It probably is. I can't recall. It would
10 seem reasonable that it is but I just don't know for
11 sure.

12 Q Let me show you what had been marked also
13 as 3149, 3150 and 3151 which are sequential to that
14 and ask you also if those are clips that came from
15 that file, and whether the notations, if any, on
16 those documents are your notations underlined?

17 (Exhibit F3149-3151 identified.)

18 THE WITNESS: It appears that the
19 notations, arrows and little squiggles of the
20 highlighted section appears to be my writing. I
21 don't have a recollection doing it. It's possible
22 they came from files in my office.

1 BY MR. CHERTOFF:

2 Q Why did you keep that?

3 A Because it was an interesting event that I
4 had been involved with and I thought there might well
5 be further discussion of it, similar to what we are
6 having right now.

7 Q You had a feeling it might be the subject
8 of investigation?

9 A I thought it might, yes.

10 Q Directing your attention to the last page
11 of that 3151, bottom of the pile there, that's an
12 article concerning the White House. Why did that
13 make its way into your file concerning the Foster
14 death press clips?

15 A Is this a continuation?

16 Q According to the Bates stamps it is.

17 A If this is a continuation of the Wall
18 Street Journal article on --

19 Q It's not. It's a New York Times article.
20 And it's presented to you just as we received it from
21 the Department of Justice.

22 A I don't know why that would be. Something

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1 to do with the White House investigation. I don't
2 know why that would have been in my files. I didn't
3 keep a file on the White House investigation.

4 Q I understand. My question is --

5 A I don't even know now that this did come
6 from my file. I just don't know one way or another.

7 Q I put on the record that it's sequentially
8 numbered in the production log that was furnished to
9 us. It is grouped together as newspaper articles
10 with handwritten notes concerning the Foster
11 investigation. Do you have reason to believe that
12 one page doesn't come from your files?

13 A I don't know whether it came from my files
14 or not. I am quite confident there's no reason why I
15 would have consciously kept it. It may have been
16 inadvertently. I may have ripped out two or three
17 pages, an extra page or something from the clips.
18 There's a number of reasons why it was there, but me
19 keeping a file on White House was not one of them. I
20 didn't have anything to do with that.

21 Q In your mind, did you associate the White
22 House's potential reason -- did there come a time

1 subsequent, obviously, to July, that you came to
2 associate Whitewater as a potential reason that you
3 may not have been allowed to look at documents?

4 A Well, at the time, the term Whitewater
5 didn't mean anything to me. I don't think it meant
6 anything to hardly anybody in the country. There was
7 a time subsequent to that, I suppose, when the
8 knowledge that White House gave me some -- caused me
9 to think that possibly there were White House related
10 documents, that was one of the things he didn't want
11 us to see in there.

12 Q Is that the reason -- you don't actually
13 remember putting that clip in there?

14 A I don't remember putting the clip in the
15 file, no.

16 MR. FISHMAN: May we go off the record a
17 second.

18 (Discussion off the record.)

19 MR. FISHMAN: We will -- as we just
20 discussed off the record, I am not sure whether this
21 particular document, when it was produced, is from
22 Mr. Adams's files or it was simply a Bates stamping

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1 error on the part of the people who collected the
2 documents. We will check, to the extent we are able,
3 to ascertain its origin. We will advise the
4 committee as soon as possible.

5 BY MR. CHERTOFF:

6 Q Let me show you 3398, 3399, 3400, 3401,
7 3402 and 3403, all prefixed F, and ask you whether
8 the cover, which is F3398, the transmittal slip, is
9 your handwriting.

10 (Exhibit F3398-F3403 identified.)

11 THE WITNESS: No. That's not my
12 handwriting.

13 BY MR. CHERTOFF:

14 Q Do you know whose handwriting it is?

15 A I don't recognize the handwriting. I
16 recognize the name down --

17 Q Whose name?

18 A The name is Rod and that refers to an
19 individual named Rod Rosenstein who was in the office
20 at the time, also on detail from the criminal
21 division.

22 Q Was he involved in this at all, in the

1 Foster investigation at all?

2 A No.

3 Q Directing your attention to early August,
4 was there any discussion that you heard concerning
5 someone trying to get Web Hubbell to have Phil put a
6 lid on the Foster case?

7 A I don't recall any discussions like that,
8 no.

9 Q Now, since August of 1993, other than
10 yourself being questioned by people who have been
11 investigating this Foster matter, have you been
12 involved in any further activities in connection with
13 the Vincent Foster death?

14 A No, I have not.

15 Q Have you ever been involved in
16 investigating Whitewater or anything associated with
17 it?

18 A No.

19 Q Apart from what we have discussed here from
20 the Foster death?

21 A Like I said, until like three or four
22 questions ago, until the Foster death, the term

1 "Whitewater" wouldn't have meant anything to me, so
2 I don't know if the two are related or not but I have
3 had nothing to do with the Whitewater investigation.

4 MR. CHERTOFF: I have nothing further.

5 THE WITNESS: May I take about a
6 five-minute break or two-minute break?

7 (Recess.)

8 EXAMINATION

9 BY MR. BEN-VENISTE:

10 Q Mr. Adams, my name is Richard Ben-Veniste
11 and I am the special counsel for the Democratic staff
12 on the special committee. I am going to go over some
13 of the same ground that Mr. Chertoff has traveled,
14 and forgive me if I am being somewhat redundant but
15 my point of view may be slightly different than
16 Mr. Chertoff's.

17 First of all, I would like to know whether
18 you are familiar with Mr. Nussbaum's reputation at or
19 about the time that you were assigned or detailed
20 over to the White House?

21 A I didn't know anything about him at all. I
22 had heard the name.

1 Q Did you come to learn something about
2 Mr. Nussbaum's reputation and background in the
3 interim between the time you were detailed over to
4 the White House and July of 1993?

5 A Between the time -- you mean starting with
6 the time when I was detailed to the White House in
7 July of '93?

8 Q Yes.

9 A It's hard for me to say what I knew --

10 Q You knew he was a prosecutor, himself, with
11 the prosecutor's office in the southern district of
12 New York?

13 A No, I didn't know that. I knew his
14 background was in private practice which, in my
15 understanding, he specialized in corporate mergers
16 and acquisitions. I didn't understand he had been a
17 federal prosecutor, no.

18 Q Did you know that he had been a counsel to
19 the House impeachment committee in connection with
20 Richard Nixon impeachment investigation?

21 A Well, I knew that from reading about it in
22 the paper, yes.

1 Q Then you did know that he had been a
2 partner for some considerable length of time in a New
3 York firm specializing in, as you mentioned, civil
4 litigation?

5 A Yes, I knew that.

6 Q Did you have any reason at all as of July
7 21, 1993, to question either Mr. Nussbaum's veracity
8 or integrity?

9 A No.

10 Q Now, let me work sort of backwards in time
11 from where Mr. Chertoff concluded. In your meeting
12 with Mr. Collier, is it fair to say that Mr. Collier
13 was very concerned and wished to express his concern
14 that he thought, from a political standpoint, that
15 the White House was making an error in judgment in
16 the way that they had set up the ground rules for
17 access to materials which the Park Police wished to
18 review?

19 A Read me back the question. It's a very
20 long question. Read it back, please.

21 (The reporter read the record as requested.)

22 THE WITNESS: I am not sure if I can agree

1 with that or disagree with that. He was making --
2 his thought was that, his goal in the meeting was to
3 get the Park Police removed. He also said in the
4 meeting that he thought that the -- let's see what I
5 have in my notes here -- he expressed the opinion
6 that Mr. Nussbaum was making a mistake in the way he
7 was -- that Bernie's involvement with the
8 investigation was a mistake.

9 BY MR. BEN-VENISTE:

10 Q Right. Was he talking to you about making
11 a mistake in law, that his concerns about issues of
12 executive privilege and attorney-client privilege
13 were erroneous, or was Mr. Collier concerned that
14 Mr. Nussbaum was making an error in his political
15 judgment?

16 A It was more the latter, error in his
17 political judgment.

18 Q Indeed, is it not the case that Mr. Collier
19 suggested that those with some political acumen in
20 the administration thought that Mr. Nussbaum was not
21 long for his position as White House counsel because
22 of his political judgment as compared with his legal

1 acumen?

2 A I think that's accurate. He specifically
3 said that his boss, the Secretary of the Interior, he
4 said had good political judgment, thought that Bernie
5 was making a big mistake and might be on his way out,
6 were either his exact words or a pretty close
7 paraphrase.

8 Q This was because, in Mr. Collier's
9 judgment, as he expressed it to you, in substance,
10 that whatever the legal formalities and
11 technicalities involved as to whether Mr. Nussbaum
12 might have a legal basis to assert an objection to a
13 review by the Park Police, from a common sense
14 standpoint and the practical standpoint, he should
15 have provided access to the Park Police?

16 A That's essentially accurate, yes.

17 Q In the course of that conversation you had
18 with Mr. Collier, is it correct that he expressed
19 some misgivings about whether the Park Police should
20 indeed have continued on as the primary investigative
21 agency in connection with the Vincent Foster suicide?

22 A Yes. I think I have indicated several

1 times his goal was to have the Park Police replaced
2 by the FBI.

3 Q Were you familiar at all or did you come to
4 familiarize yourself with the level of expertise of
5 the individual investigators that the Park Police had
6 assigned to this investigation?

7 A I didn't have enough contact with them to
8 form an opinion as to how competent they were or not.

9 Q With respect to your notes, I don't believe
10 Mr. Chertoff covered this, but at F139 your notes
11 indicate that Mr. Collier said that the Park Police
12 are "capable of doing a stabbing at national park but
13 not a case like this" and then there's a parentheses
14 "valid concern???"

15 I take it the parenthetical comment was
16 yours editorially, which you added.

17 A That's correct.

18 Q Now, the "valid concern" meant what, in
19 your mind?

20 A Valid concern that the Park Police might
21 not be capable of handling a case like this, was that
22 a realistic concern on his part.

1 Q Did you have an opinion about that at the
2 time?

3 A I probably did. I can't recall exactly
4 what my opinion was. I will speculate to you a
5 little bit, if you want. I would assume that my
6 opinion was that it probably was a valid concern,
7 that it's difficult for any agency dealing with White
8 House officials, particularly for the Park Police.

9 Q Was it the idea that Mr. Collier was
10 suggesting that the -- strike that.

11 Clearly, it was not Mr. Collier's view that
12 the investigation should just disappear but rather
13 that the FBI should take the lead in the
14 investigation?

15 A Well, that was my understanding of what his
16 goal was, yes.

17 Q Under the law, there was a provision
18 whereby the FBI could have indeed supplanted the Park
19 Police as the primary investigative agency; isn't
20 that so?

21 A That's my understanding. The FBI can
22 investigate anything the Attorney General wants him

1 to; could in fact do this if they were ordered to do
2 that.

3 Q Did you get a sense, from the initial
4 contact between Mr. Nussbaum and the Department of
5 Justice, that he, indeed, wanted the FBI to be
6 involved in this matter in a significant way?

7 A No. I never got that impression at all
8 from Mr. Nussbaum.

9 Q Did you understand that the FBI was
10 involved in the case at an early stage?

11 A Well, their agents were over there on the
12 21st. We went over the ground rules. Their agents
13 were also over there on the 22nd when Mr. Nussbaum
14 conducted the search.

15 Q Under whose invitation and authority was
16 the FBI there?

17 A I am not positive at this point. I simply
18 don't recall why they were there -- well, I am not
19 going to assume. I assume that -- well, I will
20 assume.

21 I think that the Department probably wanted
22 them there just as observers; an equally likely

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1 assumption, that maybe the Park Police wanted them
2 there.

3 Q You don't know who wanted them there?

4 A I assume someone in the Department did or
5 they wouldn't have been there. Probably someone in
6 the Department wanted them there.

7 I didn't really focus on it at the time. I
8 was a lot more concerned with what was going on with
9 the search than which agency had investigative
10 jurisdiction over it.

11 Q Let me go back a little bit over your
12 background, Mr. Adams. Is it correct that you have
13 never been in the private practice of law, that all
14 of your service as an attorney has been either in the
15 judge advocate general's office, when you were a
16 fledgling lawyer and then with the Department of
17 Justice for the balance of your career?

18 A That's correct.

19 Q Have you ever handled any civil cases?

20 A No.

21 Q And though it would be fair to say to the
22 extent that you have been directly involved in

1 litigation it has been criminal prosecution?

2 A And only in its -- well, with the Justice
3 Department, yes, and only in a support role in that
4 capacity.

5 Q And with respect to the judge advocate
6 general's office, were you a prosecutor or a defense
7 lawyer?

8 A Those two things, plus like -- plus a
9 military judge briefly, for six or seven months.

10 Q So you wore all three hats but within the
11 framework of the criminal justice system of the
12 military?

13 A That's correct.

14 Q Now, you did recognize, did you not, that
15 there were issues associated with executive privilege
16 and attorney-client privilege in connection with the
17 materials that were in Vincent Foster's office at the
18 time of his death; isn't that so?

19 A I think I recognized -- I think I have used
20 the phrase "attorney-client privilege" and "executive
21 privilege" in there. I think really to be more
22 accurate, rather than attorney-client privilege,

1 issues of confidentiality and possibly executive
2 privilege. I didn't know if the White House would
3 raise the issue of executive privilege or not.

4 Q Did you know whether or not Mr. Foster had
5 in his office any files relating to the private
6 matters of Mr. and Mrs. Clinton?

7 A Well, I knew that because, based on that
8 search on the afternoon of the 22nd, Mr. Nussbaum
9 characterized a certain number of files, and I can't
10 recall how many or what percentage, but he
11 characterized a certain number of files as things
12 that he was working on for the President and the
13 First Lady.

14 Q In their personal capacity?

15 A Yes.

16 Q And so that would implicate, would it not,
17 the notion of an attorney-client privilege?

18 A Confidentiality I would characterize it as,
19 yes.

20 Q Confidentiality arising from an
21 attorney-client privilege, would that be a more
22 accurate --

1 MR. CHERTOFF: Are you asking about his
2 opinion whether or not there was a privilege?

3 MR. BEN-VENISTE: No, no, no. I am asking
4 his understanding of the issues that were involved,
5 that there were issues of confidentiality arising
6 from a private attorney-client privilege.

7 THE WITNESS: Yes.

8 BY MR. BEN-VENISTE:

9 Q Thank you.

10 A Yes, that's an issue.

11 Q Now, I think perhaps in the course of your
12 testimony this morning you have used the term "our
13 investigation." Was there a Department of Justice
14 investigation at the time that you went over to the
15 White House on March the 21st?

16 A March the 21st?

17 Q I'm sorry. July the 21st.

18 A Read me back that question again, please.

19 (The reporter read the record as requested.)

20 THE WITNESS: I don't recall using the
21 phrase "our investigation." There was not -- the
22 investigation was being conducted by the Park Police

1 with some assistance, at that point -- my
2 understanding -- from the FBI.

3 BY MR. BEN-VENISTE:

4 Q To the best of your knowledge -- if you
5 will forgive me, Mr. Adams, if this seems like a
6 foolish question -- but were Mr. and Mrs. Clinton the
7 subject of any investigation on July 21, 1993?

8 MR. FISHMAN: If I can --

9 BY MR. BEN-VENISTE:

10 Q To the best of your knowledge.

11 MR. FISHMAN: If I can interpose, perhaps
12 you can focus it in connection with his trip to the
13 White House.

14 BY MR. BEN-VENISTE:

15 Q Yes. Let me rephrase the question.

16 A Rephrase the question.

17 Q I withdraw the question.

18 In connection with your visit to the White
19 House on July the 21st, 1993, were Mr. and Mrs.
20 Clinton the focus of an investigation?

21 A No.

22 Q When you talked before about Mr. Margolis

1 saying in a joking way that he, under other
2 circumstances, if there were IBM or some other
3 corporate entity, might request a grand jury
4 subpoena. --

5 A I recall saying that, yes.

6 Q -- for documents, did you know, at that
7 point, whether there was any basis for convening a
8 grand jury, much less requesting a subpoena from a
9 grand jury?

10 MR. FISHMAN: Again, let me interpose, if
11 you could focus that a little more specifically.

12 BY MR. BEN-VENISTE:

13 Q With respect to the Foster papers that we
14 have been discussing.

15 A Not with respect to the Foster papers. I
16 think there possibly would -- I didn't, first of all,
17 I didn't focus on it. But, I think in hindsight
18 there might well have been reason for a grand jury to
19 investigate a death, a suspicious death on federal
20 property.

21 Q And in the event that a grand jury were at
22 some point convened to investigate a suspicious death

1 on federal property, can you think of what the
2 appropriate scope of a subpoena for the records in an
3 attorney's office would be?

4 MR. FISHMAN: I am going to, I think --

5 BY MR. BEN-VENISTE:

6 Q Just a yes or no at this point.

7 MR. FISHMAN: Well, I think to be
8 consistent with the my colloquy with Mr. Chertoff
9 this morning on offering opinions as to scope of
10 subpoenas and so forth.

11 MR. BEN-VENISTE: Let me withdraw that.

12 BY MR. BEN-VENISTE:

13 Q Did you discuss with Mr. Margolis whether
14 it would be appropriate to attempt to issue a grand
15 jury subpoena for records?

16 MR. FISHMAN: I think, again, I think to
17 the extent that they would have discussed the
18 appropriateness of issuing a grand jury subpoena,
19 that question gets fairly significantly into the
20 deliberative and investigative processes.

21 MR. BEN-VENISTE: It may well but I am
22 going to ask you that question and you can answer

1 it. If it calls for whether you had a conversation
2 with Mr. Margolis, or you can direct him not to
3 answer.

4 THE WITNESS: Read the question back,
5 please.

6 (The reporter read the record as requested.)

7 THE WITNESS: I had a discussion with him
8 on that subject several months later. It was a very
9 brief, unfocused, not an in-depth discussion about
10 whether or not you could use a grand jury to
11 participate in that investigation.

12 His opinion was --

13 MR. FISHMAN: Wait a minute. I am going to
14 interpose an objection, he is going into the
15 substance of the conversation with Mr. Margolis on
16 that point.

17 BY MR. BEN-VENISTE:

18 Q Let me clarify. After Mr. Margolis made
19 the comment to Mr. Nussbaum that you have testified
20 about, is it correct, sir, that you had no further
21 discussion about the question of a grand jury
22 subpoena until several months after?

1 A No. With Margolis I didn't have any
2 further discussion on that.

3 Q Have you ever been involved in the
4 investigation of a suicide in your professional
5 career with the Department of Justice?

6 A No.

7 Q Do you know whether Mr. Margolis had ever
8 had any experience in investigating a suicide?

9 A I don't know.

10 Q Do you know whether, from your own
11 knowledge, whether in connection with the
12 investigation of a suicide, whether the police from
13 time to time questioned individuals who knew the
14 decedent as a group or in circumstances other than in
15 a one-on-one situation?

16 A You mean did they conduct group interviews
17 of people?

18 Q Do you know?

19 A I don't know the answer. As I said, I
20 don't have -- never been involved in a suicide
21 investigation. I don't have direct knowledge of how
22 one is conducted.

1 Q To the best of your knowledge, as of the
2 29th of July, were there any documents which the Park
3 Police wished to review but were denied access to?

4 A I don't know that, I don't know.

5 Q Have you ever heard, up until this day, the
6 Park Police claimed that they had requested to review
7 documents, that they were denied the opportunity to
8 review?

9 A I might have heard that. I just can't
10 recall when or where though.

11 Q No one made a formal complaint, as far as
12 you know?

13 A No. If they did, I was not involved with
14 it.

15 Q Now, were you aware that the Park Police in
16 fact reviewed materials in Vincent Foster's personal
17 attorney's office; that is, Mr. Hamilton's office?

18 A I recall being told, as best I can recall
19 now, I think being told that by David Margolis. I
20 don't have any specific knowledge. I certainly
21 wasn't there when they did that. I was not told that
22 by anybody in the Park Police. I think David may

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1 have mentioned to me that that, in fact, happened.

2 Q Did you learn from Mr. Collier, at any
3 point subsequent to your meeting with him on the
4 29th, that he felt that the matter had now been
5 addressed by appropriate people at the White House?

6 A I didn't have any further contact with
7 Mr. Collier after that meeting on the 29th at all.

8 Q Did you discuss with Mr. Margolis or
9 Mr. Heymann whether they had had contact with
10 Mr. Collier in which Mr. Collier had expressed the
11 fact that he felt that the appropriate people in the
12 White House had now exercised their judgment in a way
13 consistent with his initial concerns?

14 A I just don't recall any conversation with
15 either Phil Heymann or David Margolis about any
16 subsequent dealings they might have had with
17 Collier. I am not able to say that they did or did
18 not have such dealings on it. All I can tell you is
19 I don't have any recollection of being told about it.

20 Q I take it you were not involved in any of
21 the review of the forensic tests undertaken by the
22 FBI in connection with the recovery of Mr. Foster's

1 note?

2 A That's correct, I was not.

3 Q I believe that you indicated in response to
4 Mr. Chertoff's question that the purpose of the
5 review of the documents would be to attempt to
6 determine whether Mr. Foster was suffering from some
7 significant personal reversal, either professional or
8 personal, or was subject to some extortion or other
9 threat. Is that a fair summary?

10 MR. CHERTOFF: I think the report speaks
11 for itself. I think it's actually slightly different
12 from what the testimony was.

13 MR. BEN-VENISTE: Let's see what Mr. Adams
14 says.

15 THE WITNESS: Read me back the question,
16 please.

17 (The reporter read the record as requested.)

18 THE WITNESS: I think the review of the
19 documents was to look for a suicide note or look for
20 something else that would indicate why he had
21 apparently committed suicide. Some reversal, some --
22 I wasn't focusing particularly on a professional

1 reversal at the time.

2 Maybe my imagination wasn't enough. But I
3 was thinking more of -- I have some family experience
4 with this; I mostly focused on clinical depression,
5 since my father suffers from that affliction, and
6 that was what came to mind. I didn't really focus on
7 professional reversal.

8 I thought it might be -- I always thought
9 there was some remote chance there could be some sort
10 of extortion or blackmail or something, but my
11 thought all along was having, like I say, my direct
12 experience in the area, and the likelihood of
13 clinical depression.

14 BY MR. BEN-VENISTE:

15 Q What sort of document would reveal that, in
16 your review?

17 A A document indicating despair, despondency,
18 a feeling of hopelessness and that whatever you had
19 done was not somehow -- was not adequate. That
20 accurately states what I felt.

21 Q I take it you were familiar with the
22 contents of the note that was ultimately discovered?

1 A I have seen it, yes.

2 Q That fits your description of an indication
3 of that type of despair and despondency?

4 A Quite well, it does.

5 Q Had you seen the note earlier, together
6 with the information that you were learning,
7 associated with the Park Police investigation and the
8 medical examination, would the note have been more or
9 less likely to lead you to further conclude that this
10 was a likely suicide?

11 MR. CHERTOFF: Objection; calls for a
12 conclusion in a hypothetical answer.

13 BY MR. BEN-VENISTE:

14 Q You can answer.

15 A Yes. I will answer it anyway. First of
16 all, I never saw the medical report, so the part of
17 your question in conjunction with the medical report,
18 I can't answer it.

19 At the time, when I did see the note, I
20 knew in general the body had been found and I think I
21 had read in the press and maybe from talking with the
22 Park Police briefly that a gun had been found

1 nearby. I think I had read in the paper at that
2 point or been told by the investigators that the gun
3 was Foster's own gun.

4 Those things, I think if I had seen a note
5 just about at any point, I probably would have said,
6 yes, this is consistent with a man suffering from
7 clinical depression and he committed suicide. That,
8 in fact, was my conclusion, when I did see the note.

9 Q With respect to have the initial
10 discussions with Mr. Nussbaum and Mr. Neuwirth on the
11 21st, you indicated that Mr. Neuwirth, in summarizing
12 the agreement that you had reached, stated that
13 Mr. Nussbaum would look at the documents and
14 determine privilege and that either you or
15 Mr. Margolis or both corrected Mr. Neuwirth?

16 A Yes. Either one of them. I think we both
17 corrected him. That was not a fair statement at all
18 of the agreement that we just reached two or three
19 minutes earlier with Bernie Nussbaum.

20 Q Was it in the same meeting that
21 Mr. Nussbaum had stated to you that he had performed
22 a quick search of the office the night before to see

1 whether he could find a suicide note?

2 A I think it was but I would like to refer to
3 my notes again on that point.

4 Q Sure.

5 A I don't have that document in front of me.
6 Could I have my notes, please?

7 Q Sure. Counsel is invited --

8 MR. FISHMAN: Happy to.

9 THE WITNESS: That's right. On
10 Wednesday -- the search -- strike the word "search."

11 At the meeting on Wednesday the 21st, that
12 was when Bernie made the comment that he had
13 conducted a quick top-of-the-desk search looking for
14 a note.

15 BY MR. BEN-VENISTE:

16 Q Did Mr. Nussbaum assure you at that point
17 that, in no way, had anyone else been in the office?

18 A Well, he certainly gave me the impression
19 that no one else had been in the office, other than
20 his secretary who he had allowed to enter to
21 straighten up, and a cleaning person who had removed
22 the wastebasket. It was my very distinct impression

1 that those had been the only people allowed in that
2 office.

3 Q Did he say that no one else had been in the
4 office?

5 A He didn't say it, no. That's the best I
6 can recall it.

7 Q Now, Mr. Chertoff asked you whether the
8 Park Police on the 21st had complained to you about
9 anything to do with procedures that were set up by
10 the White House counsel's office. I believe you said
11 that you did not recall any such complaint being
12 voiced; is that correct?

13 A That's correct. If they did, I can't
14 recall specific words that were said. Let me just
15 elaborate on that a little bit though. I think it's
16 fair to say that they were somewhat irritated for
17 being kept waiting around. Law enforcement officers
18 tend to be like that. I can't give you my exact
19 words but I can tell you that was my impression, not
20 pleased.

21 Q Law enforcement officers tend to be more
22 action oriented and less happy when lawyers are

1 assuming control over their activities; is that fair
2 to say?

3 MR. CHERTOFF: Objection.

4 THE WITNESS: They tend to want to get the
5 job done, I think is fair to say.

6 BY MR. BEN-VENISTE:

7 Q Right. Now, did you have any understanding
8 on the 21st as to how the Park Police may have gotten
9 the understanding that they would be granted
10 immediate access to Mr. Foster's office?

11 A I don't recall how they had that
12 understanding.

13 Q Do you know whether that was an assumption
14 made on their part or the subject of any agreement
15 between the Park Police investigators and any other
16 agency?

17 A I don't know.

18 Q Did you actually at any point talk to the
19 investigators of the Park Police?

20 A Yes, when we got over to the White House we
21 did. We talked to Captain Hume, I think his name is,
22 I am not sure. Hume was the only name I heard. If I

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1 could look at that list of people at the meeting, I
2 think the name Detective Martin was on there. Yes,
3 the name is Markland Hume on there. I am sure we
4 spoke to both.

5 Q Did you speak substantively about the
6 investigation that the Park Police was conducting?

7 A Yes. I'm sorry, I can't recall the
8 exact -- I know that we were informed that the Park
9 Police had not yet looked at anything in the office
10 and the best I can recall, they probably -- they
11 passed along whatever information they had about the
12 crime scene out in the park in Virginia, but I can't
13 recall specifically what they said about that.

14 Q How was it -- strike that, all that
15 stuttering and whatnot.

16 Was it the case that you were in the
17 company of the Park Police officers as well as others
18 while you were waiting to have further contact with
19 Mr. Nussbaum?

20 A On the 22nd you are talking about?

21 Q Yes.

22 A No, Margolis and I were by ourselves most

1 of the time. There might have been some brief
2 conversation with the Park Police but for the -- and
3 I don't recall what was said, if there was such a
4 conversation.

5 But for the most part, David and I were by
6 ourselves.

7 Q How about on the 21st, was that the
8 occasion --

9 A The 21st was -- well, we were with the two
10 Park Police officers and others in Nussbaum's office
11 as we went over the ground rules for the search. We
12 then walked outside, there was some conversation with
13 Park Police then, I don't recall specifically what
14 was said, and that day too we got a ride back to our
15 office from either the Park Police or the FBI, I
16 can't remember which. It might well have been the
17 Park Police. If we had been, we probably would have
18 chatted in the car on the way back.

19 Q Is it fair to say that the subject of
20 access to the documents and the fact that the Park
21 Police had not yet gotten to review any documents was
22 the subject of your conversation?

1 A It probably was. Again, I can't recall the
2 specific words, but it probably was. I might add,
3 too, that we were all quite satisfied with the
4 agreement that we had reached, the way -- it was our
5 understanding on Wednesday afternoon, the way the
6 search would be conducted, we didn't have any
7 complaints from the Park Police about them.

8 Q Did Detective Markland or Captain Hume
9 mention anything to you about any information that
10 they had learned regarding anyone removing documents
11 from Mr. Foster's office?

12 A I don't recall them saying anything about
13 that, no.

14 Q Was that something you would have taken
15 note of?

16 A Probably so because it was my
17 understanding, from what Bernie Nussbaum had said,
18 one, he entered the office to conduct this quick
19 search for a note. He let his secretary go in to
20 straighten up. That's two. The third thing was a
21 cleaning woman had gone in to remove the
22 wastebasket. It was my distinct impression they were

1 the only people who had been in the office. If I had
2 any information contrary to that from the Park
3 Police, yes, I would have remembered it.

4 Q Would that have been, in your view,
5 something that would have been of significance?

6 A It would have been significant, yes. In
7 the context of looking for a note or some reason for
8 explaining the suicide.

9 Q If I am correct in my recollection of your
10 testimony this morning, at the time that you and
11 Mr. Margolis went over to the White House on July 21,
12 you were of the view that there was a -- if I got
13 your language correctly -- "a remote possibility"
14 that Mr. Foster's death might be something other than
15 a suicide?

16 A I would say very remote possibility.

17 Q Of course, when you had the opportunity to
18 review Mr. Foster's note, the possibility became
19 further and further attenuated in your mind, I take
20 it?

21 A Yes, it did, but I didn't see the note
22 until the following week.

1 Q I understand. Now, just to clear up an
2 area that Mr. Chertoff asked you to speculate about,
3 in terms of who Mr. Nussbaum might be talking to
4 during the period of time that he was reconsidering
5 the request that you and Mr. Margolis had made of him
6 on July the 22nd, you said you thought that you had
7 to speculate that he might be speaking with the
8 President or the First Lady.

9 A That's correct.

10 Q Do you have any basis to believe that
11 Mr. Nussbaum consulted with the President of the
12 United States or Mrs. Clinton in connection with his
13 determination of the procedures to be employed
14 regarding the review of the documents?

15 A Like I testified earlier too, I don't have
16 any direct knowledge of what he did or who he talked
17 with. I was asked to speculate this morning, and I
18 did. I don't know whether he talked to the President
19 or the First Lady. I don't know who he talked to.

20 Q You indicated, with respect to your mission
21 to go over to the White House in July, that neither
22 Mr. or Mrs. Clinton were the subject of an

1 investigation regarding Mr. Foster's death. Let me
2 ask you this, do you have the view, if a lawyer
3 commits suicide, that the authorities might be
4 entitled to review all of his client files to
5 determine whether that lawyer had a particular thorny
6 problem that was giving him a concern?

7 MR. FISHMAN: I have the same issue with
8 him giving legal opinions about rights -- the rights
9 of investigators to do things that I had with
10 Mr. Chertoff's question earlier and would request to
11 the extent that you are seeking information, if you
12 could, if you could rephrase your question in a way
13 that might not seek the sort of opinion that I
14 previously suggested was not necessarily the scope of
15 the deposition.

16 BY MR. BEN-VENISTE:

17 Q Let me ask it a different way. In
18 connection with your experience at the White House
19 and your general professional expertise, is it
20 correct that you would assume that the deputy counsel
21 to the President of the United States would deal with
22 many thorny legal problems?

1 A Yes.

2 Q Is it also fair to say that it was not your
3 intention, in going over to the White House, to
4 review the files to learn what those thorny legal
5 problems were?

6 A That's correct. We didn't intend to
7 look -- delve into the legal problems. We intended
8 to have a look at the files to see if there was
9 anything relevant to the death of Mr. Foster. We
10 weren't confident of our ability to do that without
11 delving into the contents of the file.

12 Q And the technical and legal aspects that
13 Mr. Nussbaum relied upon struck you as not being a
14 technical or legal solution; is that true?

15 MR. CHERTOFF: Objection to the form.

16 THE WITNESS: Please read it back.

17 (The reporter read the record as requested.)

18 BY MR. BEN-VENISTE:

19 Q Let me rephrase the question. Is it fair
20 to say that your view at the time would be that you
21 could have certainly performed the review within the
22 scope that you have described adequately and

1 competently, and that Mr. Nussbaum's insistence upon
2 the prerogative reviewing the documents himself on
3 the basis of whatever privileges that attach to those
4 documents was, in your view, neither practical nor a
5 reasonable solution to the problem at hand?

6 MR. CHERTOFF: Objection as to form.

7 THE WITNESS: All right. Read me back the
8 question here.

9 MR. BEN-VENISTE: Mike, do you want to eat
10 lunch here?

11 MR. CHERTOFF: No, I don't.

12 MR. BEN-VENISTE: All it does is make the
13 witness forget the question and require that it be
14 read back.

15 MR. CHERTOFF: I disagree with that, so
16 read the question back.

17 MR. BEN-VENISTE: So what purpose is an
18 objection to form?

19 MR. CHERTOFF: The purpose is to suggest
20 that if you made the question a little more brief and
21 a little more intelligible, we would maybe get an
22 answer that would be useful.

1 (The reporter read the record as requested.)

2 THE WITNESS: I thought we could look at
3 the documents without violating any confidentiality
4 concerns. The very limited review we were going to
5 do of those documents could have been done without
6 violating attorney-client privilege and
7 confidentiality. I also thought that his insistence
8 on us not doing that was not a very practical
9 solution to the problem at hand.

10 BY MR. BEN-VENISTE:

11 Q Let me ask you a question about that. How
12 would you have been able to review the documents,
13 even within the limited scope of what you were
14 looking for, without looking at the contents?

15 A We anticipated doing a very quick look
16 either at the subject of the file, which probably
17 would have been printed either on the outside or on
18 the top of the file, and, at most, a very, very quick
19 looking through the file to see if there was a
20 suicide note in there or if the subject was somehow
21 something that would maybe make him commit suicide;
22 like I said, that he was the subject of an extortion

1 attempt or something like that.

2 Anything else we had no interest in and
3 would have not examined the contents of at all.

4 Q So you would not have delved into the
5 contents but surely you understand that the
6 attorney-client privilege would attach to even
7 reading the front page to determine the contents,
8 from a technical standpoint?

9 A Yes, from a technical point it probably
10 would have.

11 Q But you felt that the practical
12 considerations might well override the technical
13 concern that this would cause?

14 MR. FISHMAN: I object to him being asked
15 how he was evaluating the weight of the legal
16 arguments that might be advanced.

17 MR. BEN-VENISTE: Let's go on.

18 BY MR. BEN-VENISTE:

19 Q Materials were in fact segregated by
20 Mr. Nussbaum?

21 A That's correct.

22 Q There were documents which were segregated

1 in a pile for consideration for review of the Park
2 Police, were they not?

3 A No. I thought that there were -- my
4 recollection is that there were three piles: One for
5 turning over to the personal attorney of the Foster
6 family, those were Foster's personal documents. The
7 other was documents that were going to be parceled
8 out for working on by other White House counsel
9 people. And the third was documents that he was
10 working on for the personal legal matters of the
11 Clintons, and they were going to be given to the
12 Clintons' personal attorney.

13 Q You don't recall there being any documents
14 where anybody asked Mr. Nussbaum to hold those in a
15 pile and consider having those reviewed by the
16 investigative authority?

17 A I don't recall that at this point, no.

18 Q It is correct, is it not, that Mr. Nussbaum
19 went through these files rather quickly, looking at
20 the beginning of the page, much like I think you
21 indicated you would have done had you been the one
22 looking at them in the first instance?

1 A Yes, that's accurate.

2 Q He glanced at them quickly, he was moving
3 through them quickly, according to your recollection,
4 and that is also the case with respect to the
5 materials that came out of the briefcase?

6 A That's accurate, yes.

7 Q He identified Mr. Foster's briefcase which
8 you have described as being a black briefcase to the
9 best of your recollection or a dark colored
0 briefcase?

1 A Dark colored is the best I can recall.

2 Q Do you remember what type of briefcase it
3 was?

4 A Very hard to describe but it was a -- the
5 best I can describe it, and I have seen it in the
6 grand jury room, they asked me if that was --

7 MR. FISHMAN: Object.

8 BY MR. BEN-VENISTE:

9 Q You have seen it recently?

0 A I'm sorry. I am very tired.

1 MR. CHERTOFF: You have to wake up.

2 THE WITNESS: I have seen it recently. The

1 best I can describe it, it's a dark-colored
2 briefcase, sort of a conical shape at the top. It
3 sort of curves over at the top. It's not flat, in
4 other words.

5 BY MR. BEN-VENISTE:

6 Q What sort of handles does it have?

7 A I can't recall specifically. Obviously you
8 can carry it from the top as best I recall.

9 Q Does it have sort of a swivel mechanism on
0 the handle or is it the kind of handle that retracts
1 back into the case?

2 A As best I can recall, it was a swivel
3 mechanism on the top.

4 Q But your recollection of this is not?

5 A It's written out of a description of the
6 briefcase. I have a very good recollection of taking
7 documents out of the briefcase, though.

8 Q In your mind's eye, what do you see of
9 Mr. Nussbaum at the point that he takes the documents
0 out of the briefcase? The briefcase is where?

1 A I think as I testified here, I can't recall
2 exactly. It was either on the desk or on the

1 credenza, as best I recall. It was somewhere under
2 Mr. Nussbaum's control.

3 Q Was Mr. Nussbaum sitting or standing at the
4 time that he removed the documents from the
5 briefcase?

6 A I can't absolutely say. I think he
7 continued to sit at the desk but I am not absolutely
8 positive whether he was sitting or standing.

9 Q What did he do with the documents once he
10 removed them, he reached in?

11 A Yes, he reached in.

12 Q With one hand or two hands, as you recall?

13 A I don't recall.

14 Q Where did he place the documents that came
15 out of the briefcase?

16 A I think he placed them in one of three
17 piles, as I recall. He treated those documents as he
18 treated the documents that came from the desk and the
19 credenza.

20 Q So, where was he maintaining those piles of
21 documents?

22 A I think it was on Mr. Foster's desk.

1 Q Do you recall the volume of the material
2 that came out of the briefcase?

3 A The best I can recall there were four or
4 five files in there, four or five items, I would say.

5 Q When you say "files" do you mean file
6 folders?

7 A Yes.

8 Q Do you remember the color?

9 A I don't recall exactly. It's my
10 recollection that most of the file folders in the
11 office were a dark brown color.

12 Q Do you remember anything, in seeing them,
13 as to whether they were the kind that has an elastic
14 band closure or were they the type that don't have a
15 closing mechanism?

16 A I don't recall that detail.

17 Q Do you recall whether there were any
18 documents that were not in a folder, that were loose
19 as they came out of the briefcase?

20 A There could have been. I just don't
21 recall.

22 Q Do you remember anything that was said

1 about describing the documents that came out of the
2 briefcase?

3 A I think that one of the documents that came
4 out of the briefcase might have been an envelope for
5 an airline ticket. And it was about the time that
6 Mr. Nussbaum was going through the briefcase that I
7 remember describing an envelope for an airline ticket
8 that he then said, referred to later, referred to
9 some trip Mr. Foster had taken sometime in the past.

10 Q Did he say anything else about any of the
11 materials that were removed?

12 A No, I don't remember any of the specific
13 materials being removed. I recall the details and
14 the conditions under which he removed them but I
15 don't recall the exact details of how many items
16 were -- were in file folders and how many items were
17 not in the file folder.

18 Q You have a distinct recollection of his
19 removing them, in your mind's eye?

20 A Yes.

21 Q And either the briefcase was on the desk or
22 behind him on the credenza or to the side on the

1 credenza?

2 A Probably would have been to the side so
3 that he could get at it more conveniently.

4 Q But you don't have a specific
5 recollection?

6 A As I testified two or three times already,
7 no, I don't.

8 Q I'm sorry, but this is a matter of some
9 considerable importance to us, so please forgive me
10 if I am repetitive. Do you remember what pile or
11 designation any of the documents that were removed
12 from the briefcase were placed in by Mr. Nussbaum?

13 A No, I don't.

14 Q Do you recall what happened -- do you
15 recall whether he removed documents more than once
16 from the briefcase or did he take all of the contents
17 out at the same time?

18 A I think he put his hand in the briefcase on
19 more than one occasion to take documents out. He
20 started his search of the briefcase at one point
21 during the pulling out or examining of documents. My
22 best recollection now, two years after the fact, he

1 finished the briefcase and went on to something
2 else. He didn't go back and forth to something else
3 and then pull a few more out of the briefcase.

4 Q So he pulled the files out seriatim from
5 the briefcase, making more than one motion to go into
6 the briefcase --

7 A That's right.

8 Q -- until he finished cataloging what was in
9 the briefcase?

10 A Well, that was my understanding. Again,
11 though, not having seen what was in the briefcase, I
12 can't tell you that he catalogued everything in the
13 briefcase.

14 Q I understand.

15 A I have a pretty good recollection that he
16 did not go back and forth to the briefcase and other
17 things. He finished the briefcase and went on to
18 something else.

19 Q What do you recall he did with the
20 briefcase after he was finished with it?

21 A I don't recall. I imagine he put it back
22 on the floor where he found it. I just don't know.

1 Q But you don't have a specific recollection
2 of that?

3 A No.

4 Q Now, is it correct that your understanding,
5 at the conclusion of this process, from Mr. Nussbaum
6 was that the documents which had been segregated into
7 these different categories would then be disbursed
8 according to the category to which they had been
9 designated?

10 A That's right. According to one of the
11 three categories.

12 Q You specifically stated that you did not
13 recall the timing and that was not a subject, to the
14 best of your recollection, that was discussed?

15 A If it were discussed, I don't recall it at
16 this point. I think -- let me amend that a little
17 bit. I think that the materials that were to be
18 given to the family, I think Margolis said, and
19 everybody else agreed, we have no problem with giving
20 them to the family right now, let them take the
21 personal pictures and things like that, let them take
22 the mementos out.

1 Q And did he interpose any other objection as
2 to what Mr. Nussbaum indicated that he proposed to do
3 in terms of disbursing these materials?

4 A I don't recall Margolis interposing an
5 objection to what he proposed to do with the
6 materials at the end of Mr. Nussbaum's search but he
7 certainly interposed an objection to the way the
8 search was conducted.

9 Q I understand that. I am not suggesting
10 that he did otherwise. Now I am focusing at the end
11 of the review of the materials in Mr. Foster's office
12 by Mr. Nussbaum. He indicated that he intended to
13 disperse the materials in the category of personal to
14 Mr. Foster and his family, to Mr. Foster's family
15 representatives and those pertaining to personal
16 matters of the President and Mrs. Clinton --

17 A To their personal attorney.

18 Q -- to their personal attorney. And the
19 other materials to other individuals in the White
20 House counsel's office who would then be reassigned
21 the matter.

22 A That's correct.

1 Q If someone dies or leaves under sudden
2 conditions at the Justice Department, with respect to
3 other ongoing matters that that individual has, is it
4 fair to say that those files would be reassigned to
5 other attorneys working in the Justice Department? I
6 don't think I am asking for anything terribly
7 confidential in this respect.

8 MR. FISHMAN: I --

9 THE WITNESS: Let me answer it. I have
10 never seen that particular situation, fortunately,
11 but of course the person's work would be given over
12 to someone else.

13 BY MR. BEN-VENISTE:

14 Q The work of the Justice Department goes
15 on.

16 A Right.

17 Q The files that are ongoing and pending,
18 even if they are closed, they have to be distributed
19 somewhere within the Justice Department. They just
20 don't remain --

21 A If they were closed, they go to the Justice
22 Department's records facility. The ongoing work of

1 the attorney would be distributed to other attorneys.

2 (Discussion off the record.)

3 MR. BEN-VENISTE: I have no further
4 questions at this time.

5 EXAMINATION

6 BY MR. CHERTOFF:

7 Q You testified that you became aware at some
8 point that Mr. Nussbaum had the experience in private
9 practice of handling civil litigation. Did you also
10 learn that he handled criminal cases from time to
11 time in private practice?

12 A I didn't know that, no.

13 Q Now, when you met with Mr. Collier, I think
14 you were asked a series of questions concerning
15 whether Mr. Collier was expressing his judgment about
16 the White House's behavior on July 22 as a political
17 matter. This meeting was with you and Mr. Margolis;
18 correct?

19 A That's correct.

20 Q Neither of you were political appointees;
21 is that correct?

22 A That's correct.

1 Q Neither of you were called upon to express
2 political judgments in the course of this meeting;
3 correct?

4 A That's correct.

5 Q You are, though, by training, particularly
6 training as an ethics officer, sensitive to the
7 appearances of propriety and sensitive to the
8 appearances of impropriety; correct?

9 A I think that's correct, yes.

10 Q In fact in your discussion or rather in
11 Mr. Margolis's discussion with Mr. Nussbaum during
12 the 21st and the 22nd of July when he talked about
13 the need to have an appearance of independence in the
14 review, that was a concern that relates to the
15 appearance of propriety or the appearance of
16 impropriety; correct?

17 A It was a concern that related to that and
18 it was also, I would say, a political concern that it
19 was just appear better politically to allow us to
20 participate in the search, and whether we did --

21 Q You mean it would be in the White House's
22 political interest to have that happen?

1 A That's right.

2 Q But you and Mr. Margolis had no political
3 interest in that; correct?

4 A No, we didn't.

5 Q You had an interest in having an appearance
6 of propriety; correct?

7 A That's correct.

8 Q You did not want to be part of a proceeding
9 that was a sham proceeding or a window dressing type
10 proceeding; correct?

11 A Yes. We didn't want to have the feeling
12 that we were being used is the feeling we didn't want
13 to have.

14 Q Now, on July 22, when in fact the inventory
15 of Mr. Foster's office occurred, it was -- the FBI
16 was represented as well as the Park Police.

17 A That's right.

18 Q Mr. Nussbaum didn't express a concern on
19 that day about the competence level of the Park
20 Police; correct?

21 A No, he didn't.

22 Q He certainly didn't express any reservation

1 about your competence or Mr. Margolis's competence?

2 A No, he didn't.

3 Q He certainly didn't express any reservation
4 about the FBI's competence on that day?

5 A No.

6 Q Incidentally, you were asked whether the
7 Department of Justice was investigating the Foster
8 death at this point in time. Do you know whether the
9 United States Attorney's office in the Eastern
10 District of Virginia had been consulted by the Park
11 Police in connection with the investigation into the
12 circumstances of the death?

13 A I don't know. I do not.

14 Q On July 22, you were asked a question, on
15 Mr. Ben-Veniste's examination, about a comment
16 Mr. Margolis made to Mr. Nussbaum about whether he
17 could have gotten a subpoena. Do you recall that?

18 A I recall that.

19 Q That comment came up during the beginning
20 of the process of the full review by Mr. Nussbaum in
21 Mr. Foster's office; correct?

22 A No, it was near the end.

1 Q Near the end. So the issue of the subpoena
2 was brought up by Mr. Margolis almost at the
3 conclusion of the process of Mr. Nussbaum's review of
4 the documents?

5 A Right.

6 Q Now, you were asked some questions by
7 Mr. Ben-Veniste concerning attorney-client privilege,
8 and whether those concerns were expressed by
9 Mr. Nussbaum during the course of the inventory that
10 took place on the 22nd of July. Mr. Foster was in
11 the west wing of the White House; correct?

12 A That's right.

13 Q You understood that to be the office where
14 he conducted his business as deputy counsel to the
15 President; is that correct?

16 A That's right.

17 Q You did not understand him to conduct a
18 private law practice in that office, that is right?

19 A Not as a private law practice with outside
20 clients, no.

21 Q Did you consider him to be conducting
22 private law business for the President and the First

1 Lady?

2 A Yes, I did.

3 Q Where did you get that from?

4 A I can't point to anything specific before
5 that day. It was just my impression, possibly from
6 reading about it in the paper, that that was
7 occurring. Might say that doesn't surprise me a
8 bit. There's a thin line between public business and
9 private business. It does not offend me at all that
10 the counsel or deputy counsel to the President does
11 work on some personal things of the President and the
12 First Lady. And then during the search, obviously,
13 Bernie Nussbaum said these are certain things that
14 Vince Foster had been working on for the President
15 and the First Lady.

16 Q But before the search, you had no
17 notification or official indication that he was
18 handling private legal matters for the President and
19 the First Lady?

20 A I don't think I had the official
21 notification of that, but I certainly -- I think
22 that, from the description of Mr. Foster in the

1 press, things like that I had read, I assumed he had
2 that impression that he was probably doing things
3 like that.

4 Q That was from the press?

5 A I think so, the best I can recall, yes.

6 Q During the course of this review or
7 inventory by Mr. Nussbaum, did Mr. Nussbaum indicate
8 that he would supply or create a privilege log
9 regarding documents he was treating as privileged?

0 A I don't recall that he did.

1 Q Now, you know what a privilege log is from
2 your experience; correct?

3 A Why don't you explain --

4 Q Let me make sure we are on the same page.
5 In your experience as a lawyer for the Department of
6 Justice, from time to time have you encountered a log
7 that is sometimes prepared by an attorney in response
8 to a subpoena or a request for production of
9 documents where they list and give certain
0 descriptions of documents that are being withheld on
1 the basis of privilege?

2 A Yes, I have seen that.

1 Q The reason for that is that when you are
2 producing documents in response to a subpoena or a
3 request, you want to identify the universe of
4 documents even if you are going so to withhold on the
5 basis of privilege; correct?

6 A Yes, that's correct.

7 Q That's so later the side seeking the
8 documents can, for example, go to a judge and have
9 the judge review the documents in camera; correct?

10 A Yes.

11 Q And when you are dealing with privileged
12 documents, if you don't have a log like that, there's
13 no way of ever identifying what those documents were
14 or pursuing further through the courts whether in
15 fact the privilege is valid?

16 MR. FISHMAN: Since we are far afield from
17 the issue of courts here, since there is no
18 indication that judicial proceedings were
19 contemplated in the context of this investigation, if
20 you want to rephrase it in terms of the facts here, I
21 won't have an objection.

22 BY MR. CHERTOFF:

1 Q Without a privilege log in this case, you
2 have no way of knowing even what the universe of
3 documents to which privilege might be claimed was;
4 correct?

5 A That's right.

6 Q So you would have no basis in which to
7 identify and raise questions about whether assertions
8 of privilege were valid; correct?

9 A Yes, that's correct.

10 Q In fact, did you ever see or get any kind
11 of a log or inventory or documentation regarding any
12 of the documents that had been reviewed in that
13 office?

14 A I never did, no.

15 Q Finally, in connection with the pile of
16 documents that Mr. -- I'm sorry.

17 There were questions concerning the
18 distribution, or what Mr. Nussbaum indicated to be
19 the distribution, of the piles of the documents after
20 the review. Did I understand correctly that there
21 was an indication that Mr. Foster's family would be
22 given certain mementos?

1 A Yes.

2 Q And as to that, Mr. Margolis raised no
3 objection; correct?

4 A That's correct.

5 Q As to the other distributions, did
6 Mr. Nussbaum ask Mr. Margolis for permission to
7 dispose of the documents as he indicated he would?

8 A I don't recall that he did or didn't. I
9 just don't recall that.

10 Q And in any event, at that point in time
11 neither you nor Mr. Margolis had an idea of what
12 those documents were, because you had not been able
13 to see them; correct?

14 A We had not been able to see them and we
15 didn't know what the documents were, that's correct.

16 Q With respect to the pile or group of
17 documents that were denoted as relating to the
18 personal affairs of the first family, did
19 Mr. Nussbaum explicitly tell you they were going to
20 go to the counsel, the private counsel to the
21 President and the First Lady?

22 A I think he did. I think he said they were

1 going to go to the President's private counsel, yes.

2 Q He said "private counsel."

3 A Private counsel, private attorney. He
4 definitely -- that was one of those words, as best I
5 can recall, were used.

6 MR. CHERTOFF: Okay, that's it.

7 MR. BEN-VENISTE: Just a couple more.

8 EXAMINATION

9 BY MR. BEN-VENISTE:

10 Q Did you ever ask for a privilege log from
11 Mr. Nussbaum?

12 A No.

13 Q Did Mr. Margolis ever ask for a privilege
14 log?

15 A No.

16 Q In fact, no such thing was ever discussed,
17 isn't that so?

18 A I think that's correct, the best I can
19 recall now.

20 Q You indicated you were not surprised a bit
21 that there would be both public and private files in
22 Mr. Foster's office; is that so?

200

1 A I think what I said I was not surprised a
2 bit that he would be working on both public legal
3 matters and personal legal matters of the President.

4 Q And this is on the basis of your
5 understanding of the practical function of the White
6 House counsel's office?

7 A Yes.

8 Q Finally, with respect to materials that
9 were categorized as Foster personal materials, in
10 addition to the pictures and mementos, that you
11 understand that there were personal financial
12 documents, bank documents or what have you that were
13 related personally to Mr. Foster as well?

14 A Yes, it's my best recollection that there
15 were documents like that in the office, yes.

16 MR. BEN-VENISTE: I have nothing further.
17 Thank you.

18 MR. CHERTOFF: Thank you.

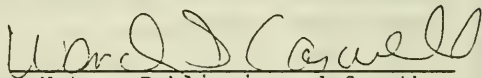
19 (Whereupon, at 1:53 p.m., the deposition
20 was concluded.)

21 -----
22 ROGER C. ADAMS

CERTIFICATE OF NOTARY PUBLIC & REPORTER

201

I, WENDY S. CASWELL, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

OCTOBER 31, 1997

DEPONENT ROGER C. ADAMS
Roger C Adams
 ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
11	19	CRIME	CRIM <u>E</u>	
12	17	DEPARTM <u>EN</u> T <u>S</u>	DEPARTMENT	
12	18	DIVISION <u>S</u>	DIVISION	
16	9	IN	BECAUSE OF A	
18	22	IS	WAS	
25	18	SURE OR NOT	SURE WHETHER HE KNOW OR NOT	
25	22	BEFORE DETAIL	BEFORE FROM A DETAIL	
28	16	THE MEETING	A MEETING	
61	13	ASSISTANT COUNSEL	ASSISTANT	
87	14	REALLY	RARELY	
109	12	MIND	LINE	
110	20	THAT	THE	
125	11	TO	TWO	
131	8	WORKS	WORKED	
138	1	White House	WhiteH <u>ou</u> se	
138	3	White House	WhiteH <u>ou</u> se	
138	19	White House	WhiteH <u>ou</u> se	
139	9	White House	WhiteH <u>ou</u> se	
143	6	IN	AND	
148	23	HIM	IT	
168	2	MARTIN	MARIELAND	
168	3	MARIELAND HUME	MARIELAND AND HUME	

DEPONENT

ROGER C. ADAMS

Roger C. Adams

ERRATA

[illegible]

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

July 18, 1995

Robert J. Giuffra
Chief Counsel
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510-6075

Lance Cole
Democratic Deputy Special Counsel
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510-6075

Dear Mr. Giuffra and Mr. Cole:

The following errata are noted in the transcript of my deposition of June 29, 1995:

1. P. 12, lines 17 and 18: the words "department" and "division" are both singular.
2. P. 16, line 9: strike the word "in" and replace with "because of a".
3. P. 16, line 15: after the word "opposite" insert the word "number", and after the word "at" insert ", say,".
4. P. 16, line 22: strike the word "January" and replace with "February."
5. P. 25, line 18: after the phrase "not sure" insert "whether he knew".
6. P. 25, line 22: after the word "before" insert "from a".
7. P. 26, line 9: strike the comma after the word appearance and insert in lieu thereof ". I".
8. P. 28, line 16: strike the phrase "the meeting" and insert in lieu thereof "a meeting."
9. P. 30, line 20: strike the word "them" and replace with "that".

10. P. 34, line 9: strike the phrase "other day" and replace with "next day".
11. P. 40, line 15: strike the phrase "at that" and insert in lieu thereof "the exact".
12. P. 48, line 20: strike the word "rule" and insert "procedure".
13. P. 49, line 21: add an "s" at the end of the word "file".
14. P. 51, lines 5 and 6: strike the phrase "when he said that" and insert in lieu thereof: "what he said at that point".
15. P. 61, line 1: strike the word "we" and insert in lieu thereof "yes".
16. P. 61, line 13: strike the word "counsel".
17. P. 78, line 16: strike the word "not".
18. P. 81, line 13: strike "in" and replace with "on".
19. P. 87, line 14: strike "really" and replace with "rarely".
20. P. 107, line 8: replace the word "him" with "it".
21. P. 109, line 12: replace "mind" with "line".
22. P. 110, line 11: replace "in" with "on" and insert the word "including" before the word "support".
23. P. 123, line 7: delete the word "was" the first time it appears.
24. P. 125, line 11: replace "to" with "two".
25. P. 127, line 18: replace "had" with "have".
26. P. 131, line 8: strike "works and replace with "worked".
27. P. 138, line 18: strike "me" and replace with "my".
28. P. 139, line 9: strike "White House" and replace with "Whitewater".
29. P. 143, line 6: strike "in" and replace with "and".
30. P. 148, line 22: strike "him" and replace with "it".
31. P. 164, line 16: strike "them" and replace with "us".

- 32. P. 166, line 18: strike "my" and replace with "their".
- 33. P. 168, line 2: replace "Martin" with "Markland".
- 34. P. 168, line 3: strike "is Markland" and replace with "are Markland and".
- 35. P. 172, line 15: strike "too".
- 36. P. 174: line 10: strike "weren't" and replace with "were".
- 37. P. 180, lines 15 and 16: The sentence reads "It's written out of a description of the briefcase." What I probably said was something like: "I can't give you a good description of the briefcase."
- 38. P. 180, line 16: insert "his" after the word "of".
- 39. P. 183, line 7: insert "his" after "remember".
- 40. P. 195, line 1: strike "he" and replace with "and".

Sincerely,

Roger C. Adams

Roger C. Adams
Counsel to the
Deputy Attorney General

In the late afternoon of Wednesday, July 21, we met in the office of White House Counsel Bernard Nussbaum with Mr. Nussbaum, Steve Neuwirth and Cliff Sloan of his staff, and representatives of the FBI and Park Police to go over the ground rules for a search of Mr. Foster's office. All agreed that because of the hour the search would not begin until the next day. At that point the Secret Service had stationed an agent by the door to Mr. Foster's office and a Secret Service agent who was at the meeting announced that a special lock would be placed on the door and that he personally would hold the key to secure it overnight. However, Mr. Nussbaum stated that he had already conducted a quick search of the "top of the desk" the previous evening to see if he could find a note. Moreover, other persons in the Counsel's office had entered the office during early morning business hours. Specifically, Mr. Nussbaum had allowed a secretary to enter the office to "straighten up" the top of the desk, and cleaning personnel had entered to empty a waste basket. Mr. Nussbaum or someone else in the Counsel's Office noticed the basket being removed and had retrieved the contents. They were in a plastic bag in the office.

At the Wednesday meeting there was agreement that the Justice Department attorneys would look at each document or at least each file to determine if it contained privileged material, in which case it would not be examined by the Park Police or FBI. We would not read the documents or make notes, but merely examine them long enough to determine if they were covered by the attorney-client privilege or possibly executive privilege. As an example of the clarity of this agreement, Mr. Neuwirth at one point, apparently trying to summarize it, said that "Bernie would look at each document and determine privilege. If he determined no privilege, it could be shown to the law enforcement officers." He was immediately corrected and Mr. Nussbaum agreed that the Justice Department representatives would see the documents to determine privilege. The next morning, however, Mr. Nussbaum had changed his mind and said he would look at the documents and decide privilege issues himself. The Justice Department attorneys pointed out that that was inconsistent with the previous day's agreement and would cause problems. We stated that the Counsel's Office would be better off to allow the Department attorneys to decide or at least help decide, privilege issues, because that would allow the White House to say that the issue was considered independently. Moreover, we stated that we had been asked to undertake this particular assignment at the White House in part because we had reputations of not talking to the press or "leaking." Mr. Nussbaum did not immediately begin the search but waited for about two and one half hours -- during which time he said he was considering whether to allow us to see the documents -- before deciding that only he and Associate Counsels Neuwirth and Sloan would see the documents.

During the search, Messrs. Nussbaum, Neuwirth, and Sloan stayed behind Mr. Foster's desk and examined documents pulled from the desk, nearby credenzas, and a briefcase. No other persons actually saw the documents. At one point during the search, Mr.

Sloan stated to an FBI agent who was standing: "You're not standing to get a look at the documents are you?" The agent indicated he was not, but sat down. In the particular setting, the remark was (to put it charitably) extremely offensive.

During the search, documents were removed from a briefcase. As with documents taken from the desk and credenzas, Mr. Nussbaum glanced at them quickly and made comments such as "these are privileged, they're things we're working on in the office," or "this has to do with something he was working on for the President," or "this is personal." We were not able to see the briefcase to see exactly what was in it. By the same token, we could not see the drawers to see if all material had been accounted for in them.

We asked to have the computer in Mr. Foster's office turned on. Mr. Nussbaum said he did not know how to do so and, in any event, he would not do so in our presence in case there were privileged documents on the computer. He said he would have a staff member examine the contents of the computer after we left. (Press reports in morning newspapers of that day had stated, without attribution, that no suicide note had been found on his computer.)

The Washington Post subsequently reported on Friday, July 23, that the search by Mr. Nussbaum had been "under the supervision" of Justice Department lawyers. It is extremely likely that the White House provided this characterization of the search.

I am not sure of the exact days involved, but there was a delay of almost 24 hours between the time a note was found torn up in the bottom of the brief case and notification of the Department.

On approximately July 28, 1993, we were informed by Thomas Collier, Chief of Staff to Secretary of the Interior Bruce Babbitt, that he had called the office of David Gergen at the White House to express concern over White House lack of cooperation with the Park Police investigation. He ultimately spoke to two persons, a Mr. Burton, and Roy [Neal] or [Neill], both of whom took a very aggressive tone and stated that any foul-up in the investigation was the fault of the Park Police, not the White House.

THE WHITE HOUSE

WASHINGTON

DET. PETE MARKLAND U.S. PARK POLICE
(202) 690-5050

SA Scott M. Salter, FBI 202-252-7137

ATSAIC Donald A. Flynn, USSS/PPD 456-2443

DAVID MARGLIS - Justice Dept. - 514-4945

ROGER ADAMS, JUSTICE DEPT. 514-2707

Charles W. Hume U.S. Park Police

JOHN K DANNA FBI 202 252-7844

Cliff Sloan

White House Counsel's Office

456-7902

Steve Newirth

White House Counsel's Office

456-7900

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OPTIONAL FORM 41 (Rev. 7-76)
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WPA 7/21 15 - 8 W.4
THAPS 7/22 10 - 3? ct W.4.)

The Washington Post

DATE: 2-5-91
PAGE: A4

Nussbaum Staff Monitored Foster Probe Interviews

By Sharon LaFraniere and Ruth Marcus
Washington Post Staff Writers

White House Counsel Bernard Nussbaum directed his staff attorneys to monitor interviews of White House employees by U.S. Park Police investigating the death of Vincent Foster, according to a yet-unreleased police report.

The Park Police discussed Nussbaum's decisions about how interviews and searches would be conducted in a lengthy report on their inquiry into the deputy White House counsel's July 20 suicide. Two officials who have read the report said it does not accuse Nussbaum of hindering investigators, although Park Police spokesman Robert Hines said yesterday, "We would have been happier if he had taken a more open stance."

Nussbaum said yesterday: "It is standard procedure to have lawyers sit in as people are being interviewed." He said he "wanted to be fully aware of what's going on" and learn any facts he could about the death of his deputy.

Asked whether the presence of a White House lawyer might constrain witnesses, he said: "No, there's a comforting effect. . . . When a colleague just died I think having somebody sit with you has a comforting effect. . . . It didn't in any way impede the investigation. Not one whit."

Nussbaum said that no one from the Park Police objected to the lawyers' presence. Had they, he said, "I would have considered at that point what to do." He said when Justice Department lawyers from the Office of Professional Responsibility subsequently insisted they wanted to conduct their interviews alone, he agreed.

Nussbaum's predecessors differ on when White House attorneys should monitor law-enforcement interviews of White House employees.

"There isn't a rule of thumb," said Peter J.

Wallison, President Ronald Reagan's White House counsel from 1986 to 1987. "It's just a matter of judgment."

Wallison said he probably would want White House lawyers to sit in on interviews if "there's a question about the involvement of the White House. . . . In this particular situation, since there was no allegation of involvement of the White House, it may be a different set of facts."

Another former White House counsel, who asked not to be named, said he probably would have advised employees not to disclose any classified information or advice to the president. "We

did not have White House lawyers sit in on an investigation of whether some NSC [National Security Council] staffers were selling drugs," he said.

But C. Boyden Gray, who served as President George Bush's top lawyer, said "The traditional thing would be to advise them that they have the right to counsel."

Previous news reports have disclosed that White House officials set a number of boundaries that irritated investigators. Nussbaum initially denied them access to any of Foster's work-related papers. One former White House counsel said he understood Nussbaum's concern, because the documents could have contained national security secrets "you wouldn't want the Park Police finding out about."

"If I did anything other than I did, I would have acted unethically," Nussbaum said yesterday.

The investigators also were not allowed to enter and search Foster's second-floor office on the day after Foster's suicide. They waited outside the door until 6 p.m., barred by Secret Service agents, then finally gave up.

In addition, White House staffers who found a torn-up note in Foster's briefcase did not turn it over to law-enforcement authorities for 30 hours.

The Park Police noted those incidents in their report of more than 100 pages, sources said. Details of the report were disclosed yesterday in a New York Times report.

The report will be released after special counsel Robert B. Fiske Jr. reviews it, according to the Justice Department. Fiske is investigating Foster's suicide as part of a broad probe of President Clinton's Whitewater real estate investment and connections to the failed Madison Guaranty Savings & Loan in Arkansas.

Staff writer Pierre Thomas contributed to this report.

TUES

The Washington Times

 DATE: 2/5/9
 PAGE: A1

Foster letter disputed

Note wasn't found in initial search

 By Michael Hedges
 THE WASHINGTON TIMES

A U.S. Park Police report on Vincent W. Foster Jr.'s suicide challenges the White House's statement that a note found after his death had been overlooked in a briefcase for four days.

A Park Police detective said in the report that he is certain the note was not in the briefcase when the White House deputy counsel's office was searched July 22. White House officials said they found it July 26.

What's more, police officers and FBI agents viewed White House Counsel Bernard Nussbaum as an obstruction to their probe of the death because he blocked them from examining certain documents, according to officials and a police file of reports on the investigation.

The Washington Times has reviewed the file, which the Justice Department has refused to release.

"Nussbaum carried his interpretation of what was privileged to an extreme," an officer wrote in a report. Mr. Nussbaum even said a published newspaper report was privileged information, the officer wrote.

The file shows that Park Police and federal agents tried continually to get into the office on the first day after the death but were rebuffed by Secret Service agents.

When investigators entered the office the next day, it was only in the company of White House and Justice Department officials, who tightly controlled their actions. The investigators were ordered to sit in a hallway while staff officials went through the documents.

"At no time during the one hour and thirty-five minutes we were in Foster's office were we allowed to handle any document," an officer wrote.

At one point, an FBI agent left his seat. He was challenged immediately by Clifford Sloan, associate counsel for the president, and accused of trying to sneak a look at documents being handled by the White House officials, the file says.

Officers writing reports said it was not possible after that point to determine when or whether documents had been taken from the office, although White House officials said they removed nothing.

The Park Police became the lead agency in the case because Mr. Foster died at Fort Marcy, a roadside park in Northern Virginia under Park Police jurisdiction.

The note that White House officials said they discovered in Mr. Foster's briefcase was found in 27 pieces, and a 28th piece was missing. It has been noted by President Clinton and others as evidence that Mr. Foster was depressed and troubled.

However, law enforcement agencies were highly incredulous about the sequence of events that the White House said led to the discovery of the note.

The note reads, in part: "The public will never believe the innocence of the Clintons and their loyal staff. ... I was not meant for the job or the spotlight of public life in Washington. Here running people is considered sport."

According to White House accounts, the note was found by Steven Newirth, an assistant of Mr. Nussbaum's, four days after the first search of Mr. Foster's office. Before it was turned over to police, it was shown to a number of officials, including Attorney General Janet Reno and Mr. Clinton, according to the file.

But one officer said that during the July 22 search he had had a clear view into the briefcase and was certain it was empty.

The White House's handling of the note is the subject of an FBI investigation, labeled as an obstruction-of-justice probe in the records. The note was checked for fingerprints, but only unusable palm smudges were found.

The police file confirms that Mr. Nussbaum, Clinton aide Patsy Thomason and Margaret Williams, first lady Hillary Rodham Clinton's chief of staff, entered Mr. Foster's office around 10 p.m. the night he died, staying until nearly midnight.

Mr. Nussbaum has said he was in the office for only 10 minutes that night. He had no comment yesterday.

Law enforcement officers never saw documents related to what now is known as the Whitewater-Madison case. "We wouldn't have known Whitewater from a white-tailed deer," one official said.

A White House spokesman said yesterday that there would be no comment on matters pertaining to Whitewater-Madison or Mr. Foster's death, citing the need to allow a special counsel to conduct his probe.

Last week, Justice Department spokesman Carl Stern said the official Foster file was being held confidential pending a review of its contents by Whitewater special counsel Robert B. Fiske Jr., who has said the Foster death will be part of his probe.

The pathologists' findings contained in the file support the idea that Mr. Foster died from a gunshot fired at close range into his mouth

that exited the back of his head.

Powder burns were found on the soft tissue inside his mouth. A mark on Mr. Foster's index finger was determined to have been made by its tightening on the gun's trigger.

The exact origin of the gun — a composite weapon with parts from at least two guns dating to 1913 — was never resolved. But some Foster relatives told police they thought it had been in the family and may have once belonged to his father.

The file notes a statement by former Arkansas Rep. Beryl Anthony, Mr. Foster's brother-in-law. He said Mr. Foster came to him July 12 and expressed considerable concern that Congress might launch an investigation into the White House travel office controversy, known as Travelgate.

Mr. Foster on that day asked for the name of a lawyer to represent him in the Travelgate matter, Mr. Anthony told police.

The police file makes clear that some questions about the death may never be answered.

Shortly after news accounts of the suicide, a witness came forward with an account of pulling into Fort Marcy, where Mr. Foster's car was found about 4:30 p.m. July 20.

The witness said he clearly remembered seeing Mr. Foster's car with its Arkansas plates. He said a light-blue Honda parked beside it contained a man described as possibly Hispanic. The witness said the man gave him a menacing look.

THE WALL STREET JOURNAL.

DATE: 2-7-9
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Justice Official Objected to Involvement Of White House in Foster Investigation

By JOE DAVIDSON

STAFF REPORTER OF THE WALL STREET JOURNAL
WASHINGTON—Deputy Attorney General Philip Heymann objected to having White House lawyers sit in on staff interviews by Justice Department investigators following Vincent Foster's suicide.

In the days after Mr. Foster's death, Mr. Heymann complained to White House Counsel Bernard Nussbaum about the lawyers' involvement in the interviews with White House staffers. Mr. Nussbaum, who has steadfastly maintained that he did things properly and ethically, declined to comment.

The Federal Bureau of Investigation was probing allegations, found in a note written by Mr. Foster, that the FBI had lied to the attorney general in its report about alleged irregularities in the White House travel office. The note was found after the July 20 death of Mr. Foster, who was Mr. Nussbaum's deputy and the personal lawyer of President Clinton and Hillary Rodham Clinton.

The objections of Mr. Heymann indicate how dissatisfied some high-level Justice Department officials were with the actions of top White House aides regarding the Foster investigation. Mr. Heymann recently announced he is leaving his job, but White House and Justice Department officials said his departure wasn't directly linked to this investigation.

Interviews with Clinton administration and law enforcement officials familiar with a U.S. Park Police report on Mr. Foster's death say it charges that the involvement of White House aides during the suicide probe may have interfered with the investigation.

The Park Police was the lead agency on the suicide because it occurred in a federal park in suburban Virginia.

Some Documents Removed

Since Mr. Foster's death, it has been revealed that documents concerning the Clintons' investment in the Whitewater Development Corp. in Arkansas were among papers taken from his office and turned over to a private lawyer for the Clintons. An independent counsel is probing Whitewater-related matters, and those papers have since been turned over to the Justice Department.

David Margolis, one of Mr. Heymann's top assistants, was present as White House lawyers sat in on the interviews, according to law enforcement officials. During the interviewing, he complained about the lawyers' presence to Mr. Heymann who then, according to one official, "raised hell" with Mr. Nussbaum.

Though Mr. Nussbaum believed White House lawyers could appropriately sit in, he discussed the question with Mr. Heymann before ultimately agreeing to remove White House people from subsequent interviews. The White House staffers who were interviewed were allowed private lawyers, if they chose to have them, according to White House aides.

"Speaking generally," said Lloyd Cutler, who was White House counsel to President Carter, "it is quite normal for the lawyers for an agency to sit in on interviews of agency personnel by law enforcement officials" unless it is a criminal investigation.

A police official said his agency also was annoyed with the involvement of White House aides during its probe of the suicide. "We have said publicly that we were unhappy with the type of cooperation we got" from Mr. Nussbaum and others in his office, said Major Robert Hines, the U.S. Park Police spokesman.

"Sat and Waited"

"Our investigators went over to the White House the day after the suicide but didn't get into Vince's office," said Mr. Hines. "They sat and waited. We were informed that everything would be coordinated by the Justice Department. We were waiting for the Justice Department representative [Mr. Margolis]. He was in charge. He didn't show up until the second day [July 22]."

The Park Police investigators, he said, didn't like being put on hold for a full day and then being denied a chance to review any of the papers and documents in Mr. Foster's office. Instead, they basically sat and watched Mr. Nussbaum and his aides screen and sort the papers by category. Mr. Nussbaum "insisted on sorting what he claimed was executive privilege and what wasn't," said one administration official.

"We didn't mind them screening them," Mr. Hines said. "We would have liked to have seen them, too."

"It was not normal how that drill in that room went, and it wasn't how we expected it to go," Mr. Hines added. "Had this been a murder, I don't know what we would have done if we ran into that kind of roadblock. But we were pretty sure we knew what we were dealing with [a suicide]."

The White House shows no inclination toward disciplining or reprimanding Mr. Nussbaum. "What should have been done was done," a top White House aide said. Any dealings with documents and subsequent investigations were done properly, the aide added.

Separately, the White House has told the Park Police that it could refuse to disclose at least part of Mr. Foster's office telephone logs. In response to a query from the Park Police, the White House said the Park Police could claim a variety of privileges, including privacy, to decline to release at least part of the logs in response to a Freedom of Information Act request.

Exactly what will be disclosed has since been thrown into question with the appointment of the independent counsel.

Others land agents wondered, insisting that at these prices, access to the river was more important than the view. "I know what land values are," said Bobby Joe Baker, a local real estate agent who had helped begin the land boom with some well-placed advertisements in Chicago newspapers. "They paid three times what that land was worth."

Forming a Company

Mr. Clinton won the November election easily, took office as Governor in January 1979, and soon brought Mr. McDougal into the state government as an economic development aide.

In 1979, in Mr. Clinton's first term as Governor, the Clintons and McDougals formed the Whitewater Development Company and transferred the land to it. The company officers were James and Susan McDougal; the Clintons were shareholders, entitled to half the company's profits and obligated for half its debt.

Land records valued the property at \$250,000. In a 1992 interview, Sam Heuer, Mr. McDougal's lawyer, said the increase reflected his client's additional investment of \$46,000 for roads, surveying and subdividing the land.

Whitewater was ready to sell, but the local land market was already souring. The size of the original 3,200-acre deal meant that many lots were coming up for sale simultaneously, while rocketing interest rates discouraged buyers.

Where Are the Buyers?

Carol Wood, a Marion County real estate agent, who owned a tract of land, remembers it as a frightening time. She had to scramble to make a modest profit before recession arrived in the early 1980's. In fact, while the Clintons say Whitewater lost \$160,000 of the \$203,000 that the owners invested in the purchase, almost everyone else involved in buying the 101 River land either broke even or made money, according to Mr. Wood.

The Clintons say they did not come close. As of May 1980, according to a summary of Whitewater's finances released in 1992 by the Clinton campaign, only a handful of lots had been sold. And of the \$60,500 in sales, only \$10,000 had been collected, with the rest tied up in installment contracts.

Building a House

Whitewater was in a squeeze. But the partners disagree about who kept the company afloat.

In a 1992 interview, Mr. McDougal said "I put money into it. Money was owed me. I don't remember them putting anything in."

Bruce Lindsey, a senior White House

official, said the Clintons made \$22,000 in interest payments on the bank loan in 1978 and 1979. The Clintons have declined to release copies of the checks or their tax returns for those years.

Trying to increase sales in 1981, Whitewater built a modest house on one of the lots, to help buyers envision what their own might look like. Mrs. Clinton borrowed \$30,000 for the house, in her name, not Whitewater's, from the Kingston Bank and Trust, a bank owned by Mr. McDougal, who had by then left government work. Regulators frown upon bank executives making loans to their own corporations.

Whitewater made payments on the \$30,000 loan, but the Clintons improperly deducted the interest on it from their personal taxes, the campaign acknowledged in 1992.

Scrambling to Pay Bills

By mid-1985, Whitewater still had 24 lots on its hands. At the end of May that year, the company transferred all of its remaining property to Chris Wade, the Flippin real estate agent who was Madison's chief sales agent. Mr. Wade said that in return he gave Whitewater an airplane worth \$35,000 that was used by Madison and eventually sold to Mr. McDougal, and agreed to repay \$35,000 of the \$100,000 the company still owed on the original loan from Citizen's Bank and Trust.

The grand dream of a developed

community along the banks of the White River never materialized. Mr. McDougal lost control of his savings and loan in 1986 and later was tried and acquitted on Federal bank fraud charges. The collapse of his savings and loan cost taxpayers \$60 million and left him bankrupt; he lives today on a pension.

Federal investigators are now poring over bank records and other documents to determine whether Mr. McDougal improperly diverted money from his savings and loan to Mr. Clinton's campaign for governor or, to Whitewater, or in any other way that might have benefited the Clintons.

Since the case arose as a national political issue, the Clintons have been reluctant to make public the underlying documents and records that would dispel questions about Whitewater's finances.

They handled a similar inquiry very differently in 1979, when a reporter for The Arkansas Democrat found out about the land deal and began pressing for details.

Mr. Burge, the banker, said he told the reporter that such information was private. A few days later, he said, Mr. Clinton telephoned him to waive his privacy rights.

"He said, 'Tell them the truth; I've got nothing to hide,' Mr. Burge said. "So I just told them what they wanted, and right after that the story died."

A Road Runs Near It

By JASON DePARLE

Several months after the Clintons bought land in the Ozarks, the partners in the company that sold it to them began negotiations that eventually led the state to pave a two-mile road to the company's property, at a cost of more than \$150,000.

The road passes about a half mile from the Whitewater property that the Clintons owned, making both parcels easier to reach, and therefore, real estate experts say, more valuable.

The negotiations between the state and the company, 101 River Development, stretched on, intermittently, for more than four years and included the two-year stretch, from 1981 to 1983, when Mr. Clinton was out of office.

There is no evidence that Mr. Clinton discussed the project with anyone in the state government and the officials in charge say they had no idea he owned land nearby.

'An Excellent Project'

"It was an excellent project on its own merit," said Fletcher Ward, the head of the real estate division at the Arkansas Game and Fish Commission, the lead

agency involved.

In a recent interview, Mr. Ward said the project might have become politically contested if the proximity of Mr. Clinton's land had been known. He said that if he had known of their holdings, he would have brought that fact to the commission's attention, though he says he believes the matter would have been approved anyway.

As part of the project, the 101 River partners gave the Game and Fish Commission two lots, worth about \$10,000 each. In exchange, the commission agreed to install a boat ramp and parking lot that would be open to the public.

Then in 1982, the company donated a third lot to the commission, in exchange for the agreement to pave the two-mile road leading to the property. The commission paid 30 percent of the construction costs and the county paid the remaining 70 percent, using state aid money.

Mr. Ward said the road made it easier for fishermen and state trout-stocking trucks to reach the river. He said both the public and the developers benefited from the deal.

ROUTING AND TRANSMITTAL SLIP

Date

7/27/93

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials

Date

1. David

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Maybe we should just
let the press do the
investigation

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DO NOT use this form as a RECORD of approvals, concurrences, dis-
clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg

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U.S.G.P.O. 1992 312-070/60006

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The Mystery of the White House Suicide

Washington: Why did the Clintons' lawyer and close confidant take his own life?

BY HOWARD FINEMAN
AND BOB COHN

IN THE AIRY GREENERY OF THE Garden Terrace Restaurant of The Four Seasons Hotel in Georgetown, two attractive middle-aged women, old friends, were having coffee. The two were wives of powerful men. Donna McLarty's husband, Mack, was White House chief of staff. Lisa Foster's husband, Vincent, was deputy White House counsel. Talking, as they often did, about surviving the rigors of Washington, Lisa Foster confided that she was worried about her husband. A corporate lawyer from Little Rock, Ark., Vince Foster was having trouble handling the pressure. He couldn't sleep, and he was losing weight. He seemed down. He couldn't let go.

The two women had much in common. Both were married to men who had been boyhood friends of Bill Clinton. They had come to Washington with high expectations and some trepidation, and they were both a little overwhelmed by the intensity and relentlessness of the place. Donna McLarty did her best to cheer up her friend.

Neither of them knew that, at about the same time, Vincent Foster was driving out of the White House gates in his Honda Accord, onto the streets of downtown Washington. No one claims to know where he went, or what he did, between 1 p.m. and 6:15 p.m. The police say that he ended up in a little-visited national park, Fort Marcy, on a bluff overlooking the Potomac River. He walked through an open field to the ramparts of an old fort and stood near a bronze cannon pointed into the woods.

There, coatless in the late-afternoon heat, he put the muzzle of an ancient Colt .38 revolver into his mouth and pulled the trigger. Though the U.S. Park Police are not "100 percent certain" of the facts, a



AP/WIDE WORLD PHOTOS

'A complicated person':
Foster (above), the First
Family at the funeral

spokesman said, their preliminary investigation and the autopsy of the local medical examiner pointed to suicide.

By the time the body of his friend had been moved to a Virginia hospital, President Clinton was chatting on "Larry King Live." He had just agreed to stay on the air for an extra half hour when Mack McLarty, who was in the White House library with the president, watching the interview, took a whispered message from an aide. McLarty approached the president during a commercial break and suggested that they forgo the extra half hour. Clinton looked at the anguished expression on the face of his old friend. "What is it?" he asked, as soon as

they were alone. "It's not Hillary or Chelsea," McLarty answered. The two men went upstairs to the private quarters where McLarty told Clinton of Foster's death. "Oh no!" the president cried out.

Clinton and McLarty climbed into an marked van with two Secret Service agents and drove to Foster's modest town house in Georgetown. The Arkansas tribe had gathered to mourn: Lisa Foster and Donna McLarty, Sen. David Pryor and his wife, Webster Hubbell, a senior Justice Department official who had been a close friend

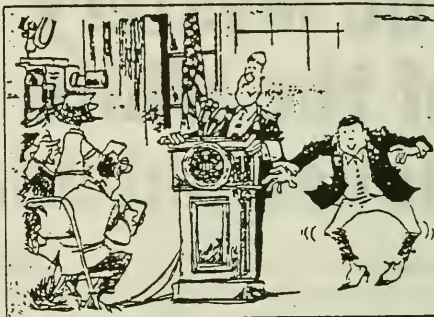


Perspectives

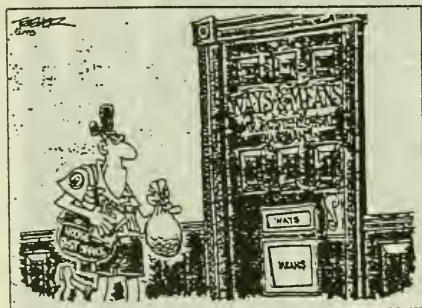
"It may be a sign of madness, sir, but it's not a sign of weakness."
BILL CLINTON, arguing to a reporter that his stance on gays in the military is evidence of strong leadership

"He gets in a little trouble, he kills a few people in Iraq, then he goes to Tokyo with his black tie and spends time with a bunch of losers from other countries."
 Former Democratic presidential candidate **JERRY BROWN**, on similarities between Bill Clinton and George Bush

"If he wants me as a character witness, I'll be there."
 Sen. **BOB PACKWOOD**, under an ethics-committee investigation of sexual misconduct, an Rep. **Dan Rostenkowski**, who is entangled in the House post-office scandal



...And I'm confident that Judge Louis Freesh is the right choice to fill J. Edgar Hoover's shoes...



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"There are those who would keep us slipping back into the darkness: 'division, into the snake pit of racial hatred, of antagonism and of support for symbols of the struggle to keep African-Americans in bondage."
 Illinois Sen. **CAROL MOSELEY-BRAUN**, in a speech that prompted the Senate to reverse a vote to extend the patent on a society insignia that contains a Confederate flag

"I got kicked in the head five times. It was cool."
 Arlington, Va., 15-year-old **HEATHER HORNE**, an violent dancing in the "mosh pit" at the Lollapalooza music festival

"We're trying to find some humor in this, but it's difficult."
 Arizona gubernatorial spokesman **STEVE TSEFFOS**, after the newspaper New Times duped state Attorney General Grant W. into being photographed with an escaped convict

"None of the daytime talk shows would be on the air if the states of Florida, Texas and California didn't exist. That's where every weird person alights."
 Talk-show host **MAURY POVICH**

"Somebody left a message on my answering machine this morning saying, 'All of you take your tofu and stuff it.'"
 Berkeley, Calif., Councilwoman **BETTY OLDS**, on local reaction to a council member's suggestion that the city's summer camp serve vegetarian dishes

"Prince Charles is no longer the symbol of greatness he was several years ago and the British crown no longer has the shine it had in previous years."
 An editorial in the *Fiji Times* last week applauding the island government's decision to cancel a holiday honoring the royal heir



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Questions are compiled from press, TV and wire-service reports as well as from NEWSWEEK correspondents.

AUGUST 2, 1993 NEWSWEEK

NATIONAL AFFAIRS

Foster, said Clinton in a moving eulogy last week, was "a complicated person." He demanded perfection in himself, and he took on the failings of others as his own. He had achieved near perfection as a civic-minded lawyer in a small city. If he had had fears and angers, he did not express them openly. A fastidious man, he came late to public life, with all its messy compromises. Somehow, on the way from Little Rock to Washington, he got lost. But in a real sense, he may have been driving himself toward Fort Marcy for a long, long time.

Foster was the most powerful Washington official to kill himself since Secretary of Defense James Forrestal, haunted by the cold war and his private demons, jumped out a window in 1949. Foster was far more than his official title suggests. When he was buried in his boyhood home of Hope, Ark., last Friday, he took with him an unmatched knowledge of the First Family's legal and political secrets. McLarty called him Hillary Clinton's "best friend," her counselor not just on legal matters but also throughout her sometimes rocky marriage. He was one of her husband's most intimate confidants. He was personal lawyer and confessor to both.

"We could never remember a time when he ever asked us to protect him; it was always the other way around," said President Clinton last week. The First Couple looked stoic at Foster's funeral in the sweltering heat, but dumbstruck as well. "I don't think that any of us will ever know why his life ended the way it did," Clinton had said earlier to reporters. Privately, he speculated to aides that Foster might have brought some burden with him from childhood.

But if Foster lived a life of desperation, he did it very quietly. Clinton's own childhood memories of Foster are happy ones. Growing up in Hope, Foster was the boy across the backyard fence, playing a pocket-knife game called mumbletypeg with his pal. "The knives didn't stick, but the friendship did," said Clinton. Another playmate from the neighborhood was Mack McLarty. Foster kept a talisman of those days in his office: a picture of three eager, scrubbed faces starting together their many years of schoolboy achievements.

If anything, Foster outdid Clinton. The son of a well-to-do real-estate man who was respected in the town and revered by his family, young Foster was always the star: the best athlete and senior-class president,

first in his class at Arkansas Law School, highest marks in the state on his bar exams for his year, made a partner in the top law firm in Little Rock after only two years.

As a lawyer, Foster relished control. He was the firm's craftsman, a stickler for detail who always outprepared the opposition. "He had the highest standards," said a partner, "and it seemed like only he could meet them." In Little Rock it is possible to be the top lawyer in the top firm and still get home to have supper with the family most nights. He had time to be civic-minded. He was a convinced and earnest patron of the local theater, the Arkansas Repertory Company. When a drama about the danger of



The Clintons' travails—and Foster's: Lisa Foster leaving the funeral last week; the cannon

paign in 1976, Foster replied. "All right, all right, all fired up."

Foster was enthusiastic about following Clinton Washington when he won presidency. He talked of a renewed sense of community

the country, even if it meant a pay cut him. His wife was less enthusiastic. Their youngest child was still in high school; had heard how expensive it was to live in Washington.

For his first few months in Washington, Foster lived a bachelor's life in his sister's apartment downtown, working 14 hours a day, taking his meals in the White House. His job was overwhelming from the start. He couldn't deal with everything on his desk, make all of the calls, no matter how many hours he put in. He couldn't seem to control all the controversies that seem to be spilling out of and over the courts office. "He would come to the door of office and chat for a minute," said one periodic Arkansas visitor. "But that's all seemed to have time for."

As a corporate lawyer who was careful to keep his clients out of the papers in Little Rock, he winced at seeing the Clintons

white supremacists bombed at the box office. Foster wrote a letter to the local papers imploring theatergoers to attend the worthy play.

Foster moved easily in crowds, but he didn't favor small talk. He often ate alone in a restaurant in a downtown mall: one of the best-paid (\$295,000 a year) lawyers in town, engrossed in his reading while hunched over a sandwich. A few years ago a reporter asked him if there was a regretted road not taken. Foster mused that he might have liked to live on top of a mountain in Colorado, writing novels. There were also reports, still unconfirmed, that Foster had considered medical help for occasional depression.

Foster watched with amused detachment the political whirl that caught up his old friend, now the governor of the state, Bill Clinton. He was an early contributor and adviser, but he never expressed any wish to go into politics himself. When Clinton asked him to help with a political cam-

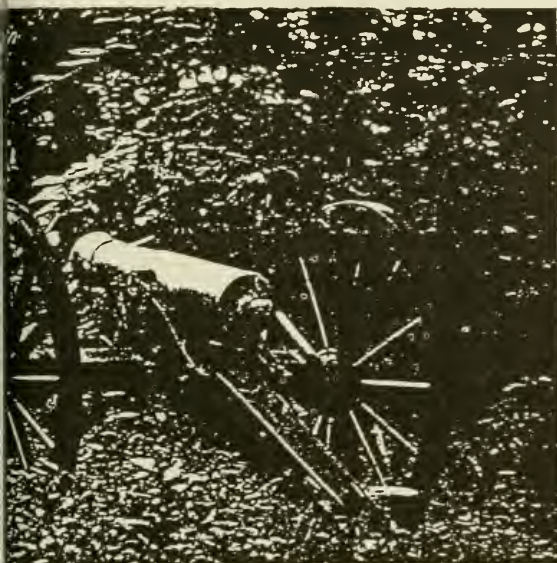


and law partner of Foster's and Hillary Clinton's. Hillary was in Little Rock visiting her mother. There was much "remembering and crying and laughing and talking" about Foster. Clinton later recalled. The president stayed until nearly 2 a.m. before heading back to the White House.

The next day, White House officials told reporters that there was no suicide note. There was no evidence of a motive, and the authorities at that point weren't even searching for one. The reporters looked at each other with practiced disbelief. There

had to be something more. Some private horror, some scandal that Foster could not afford to face. Foster's time in the counsel's office had been controversial. There were the bungled nominations of Zoe Baird and Kimba Wood and Lani Guinier and the petty intrigue of Travelgate. Washington thrives on conspiracy theories, and the public, fed by John Grisham novels and talk-show rituals of public humiliation, would demand to know more. News organizations deployed teams of reporters, who began to look into ties between Foster and his part-

ners in the Rose Law Firm, Hillary Clinton and Webster Hubbell, and big Arkansas corporations, particularly the holdings the Stephens investment-banking firm. With a mournfully knowing air, veterans' past administrations announced that Foster's death was another reminder of why "tough town" they unabated — "the toughest in the world," proclaimed one survivor of the Carter years, now a high-priced lobbyist. No one was quite willing to believe that Foster had killed himself for reasons that were personal and private.



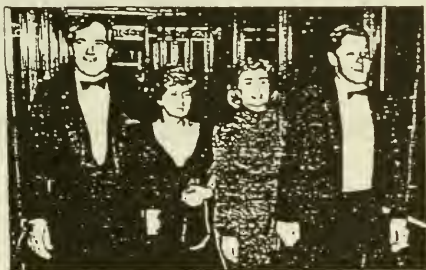
PAUL FETTERS

als make the front page every day. The first was Travelgate. Foster had asked one of his partners in the Rose Law Firm, William Kennedy III, who now worked with him in the White House counsel's office, to look into possible problems in the White House travel office. Kennedy perhaps overinterpreted Foster's orders and pressured the FBI to provide prompt guidance—within 15 minutes—on how to handle the matter. When the scandal broke, Foster thought that he had hurt his friend. Worse, he felt compelled to drag in the first lady. An old Washington hand advised Foster to make full disclosure: the cover-up, he warned, is always worse than the crime. Foster, over the objections of other White House aides, pushed for a report showing, among other things, that Hillary Clinton had knowledge of the misbegotten purge of the travel office. The press seized on this fact, and Foster grimaced at another headline.

Editorial writers, especially the acerbically conservative crew at The Wall Street Journal, began to go after the Rose-firm alumni in the White House. When Foster refused to provide a photo of himself to the paper, a mocking editorial ran a profile with a question mark instead of his picture and demanded, "Who Is Vincent Foster?" In the counsel's office,

Foster joined in the macho laughter at the grilling he was getting. But privately, he was beginning to wither under self-doubt. "I tried to tell him, 'It's just politics,'" said one friend who shared a long lunch with him a few weeks ago. "But he seemed absolutely inconsolable." When he saw Arkansas friends at parties in the capital, the talk turned to the frightening and unforgiving pace. "Are you having fun?" asked a friend, federal judge Richard Arnold. "Not yet," Foster replied.

He was never able to dress himself in the standard Washington skin of dismissive cynicism. At a party not long ago, one of these leathery denizens—an Arkansas native, as it happened—asked him half in jest to defend the counsel's office. He earned



ARKANSAS OULMIA, RAY-GAZETTE—JULY 1993

Political whirl: Foster with Governor Clinton in 1993

her disdain by launching into a heartfelt explanation of the problems there. "He should have just waved me off with a laugh," she said.

His wife, Lisa, and his family moved up in the late spring, to a town house on a less-than-fashionable street, a place with a coal-fee-brown facade and a small brick patio where a patch of grass may once have existed. His neighbors never saw him, at least during daylight.

The weekend before his death Foster and his wife finally took a break. They visited the Eastern Shore of Maryland with the Hut bells, swimming and playing tennis. Foster's old pals were worried: on Sunday night, the president himself called and tried to buck up his friend with 20 minutes of chatter. On Monday night, Bruce Lincey, the White House personnel director and another close friend and lawyer from Little Rock, dropped by and asked Foster he wanted to catch a movie. Too busy, replied Foster. At a staff meeting earlier that day, Foster seemed preoccupied. His mind was elsewhere. It was too late.

The investigators are still looking, and some forensic questions remain. Where did he get an 80-year-old revolver? Friends say he never owned guns. Where did he go between the time he left the White House and the time he arrived at Fort Marcy? The police were sent to the scene by an anonymous call to 911. Who was it? And what has the caller seen?

The Park Police and the Justice Department now insist that they want to know not just the "if" of suicide, but the "why"; well, if they really want to know the reason why, says Edwin Shneidman, professor emeritus of thanatology at the University of California, Los Angeles, they will have to perform what he calls a "psychological autopsy"—a search, not for an underlying illness, but for the triggering events that opened Foster's despair like a trapdoor.

But that, in turn, would mean looking for more than a surface, unbound suicide note. They would have to learn what Foster knew, what his personal as office files held. That could make for some uncomfortable reading, perhaps, for anyone the Clinton administration.

And the investigators would have to do one more thing, says Shneidman. They'd have to conduct long interviews with his close friends, including Clinton and McLarty, two men at the center of power who were once innocent boys plugging mumbletypeg.

With GINNY CARROLL in Little Rock

**DEPOSITION OF CHARLES W. HUME
IN RE: S. RES. 120**

THURSDAY, JUNE 29, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CHARLES W. HUME, called for examination pursuant to notice of deposition, at 9:40 a.m. in Room 534 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
GLENN F. IVEY, Esq.
Minority Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

ALSO PRESENT: VINCENZO A. DELEO

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EXHIBITS

Charles W. Hume DEPOSITION NUMBER	IDENTIFIED
Park Police Exhibit 14 and 15	27, 1952
Exhibit F2892 through F2897	36, 1954
Park Police Exhibits 118 through 129	74, 1960
Hume Exhibit 1	112, 1972
Hume Exhibit 2	153, 1973

P R O C E E D I N G S

MR. GIUFFRA: Captain Hume, my name is Robert Giuffra. I'm chief counsel of the Senate Banking Committee. To my left is Neal Kravitz, who is the principal deputy special counsel for the minority, I think I got that right, and behind me is Vincenzo DeLeo, who is an assistant for the majority. I work for the Majority staff; Neal works for the Minority staff.

This deposition is being conducted pursuant to Senate Resolution 120. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services Inc., the Arkansas Development Finance Authority and other related matters.

Section 1.B.1 of Senate Resolution 120 -- and I have a copy of the resolution if you want to refer to it -- authorizes an investigation into public hearings into "whether improper conduct occurred regarding the way in which White House

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officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death."

The focus of your deposition today will be that section of the Senate resolution. We'll be focusing on the document handling issue, which is something different than your prior deposition.

Now, you were requested to testify on June 13, 1995 through the Interior Department solicitor's office. We then sent a letter on June 14, a copy of which is attached, requesting your presence here today.

At the outset, we very much appreciate you being here. We understand you've previously testified in this matter in a deposition which was taken on July 22, 1994 in connection with Senate Resolution 229, and to the extent possible, we'll try to avoid covering the matters that were covered in the prior deposition, although there will be some overlap which is going to be inevitable in the course of doing this.

This deposition is in advance of public

1 hearings in July. I think there's a strong
2 probability that you'll be asked to testify at those
3 hearings, and we'll try to give you advance notice so
4 you can plan your schedule. Last time --

5 THE WITNESS: Right. And I have vacation
6 planned for the middle of July also, so we're going
7 to need to come up with something here.

8 MR. GIUFFRA: When do you think your
9 vacation might be?

10 THE WITNESS: I'm leaving here -- my last
11 day of work is the Friday before the 10th. I know
12 the 10th is a Monday because I'm scheduled to be
13 somewhere on the 10th. So my vacation starts when I
14 leave work Friday before the 10th -- would that be
15 the 8th?

16 MR. KRAVITZ: 7th.

17 THE WITNESS: And it will run through
18 the -- I think I'm due back to work the 19th.

19 MR. GIUFFRA: The 19th of July?

20 THE WITNESS: Wait a minute. I've got to
21 be somewhere on the 20th. Actually, the first full
22 day of work will be the 21st.

1 MR. GIUFFRA: Of July.

2 THE WITNESS: Right.

3 MR. GIUFFRA: We can work with that.

4 I will be asking you a series of questions
5 today about the matters regarding the Foster paper
6 issue, and Mr. Kravitz will be asking some additional
7 questions.

8 THE WITNESS: Okay.

9 MR. GIUFFRA: You'll be testifying under
10 oath. If at any time you don't understand a
11 question, please let me know, and I'll rephrase the
12 question. I sometimes speak too quickly, being from
13 New York, and you'll let me know if I get too out in
14 front. If you don't understand a question, I'll
15 rephrase it. If at any point you need a break, let
16 either of us know during the course of the
17 examination, and we will stop the deposition.

18 The court reporter will prepare a record,
19 written record of the questions and answers, and this
20 deposition will be treated as something called
21 committee confidential until the commencement of the
22 hearings, a meeting that will not be made public.

1 And we request you don't disclose what you've talked
2 about here today to the public or to a reporter or
3 even the fact that you were here today.

4 You have a right to be represented by
5 counsel. I just want to advise you of that; you
6 don't have to be represented by counsel.

7 Objections to the form of questions may be
8 noted for the record. Objections can also be on
9 grounds of privilege or relevance, and there's a
10 procedure specified in the resolution for handling
11 such objections.

12 You'll be given an opportunity to review
13 the transcript of the deposition to ascertain whether
14 it accurately reflects your answers to the questions
15 here today, and you'll be given a chance to correct
16 errors in transcription.

17 Do you have any questions before we start?

18 THE WITNESS: No.

19 MR. GIUFFRA: Would you please swear
20 Captain Hume.

21 Whereupon,

22 CHARLES W. HUME

1 was called as a witness and, having first been duly
2 sworn, was examined and testified as follows:

3 EXAMINATION

4 BY MR. GIUFFRA:

5 Q Captain Hume, will you please state your
6 name for the record.

7 A Charles W. Hume.

8 Q And the spelling of your last name?

9 A H-u-m-e.

10

11

12 Q And your present business address?

13 A 1100 Ohio Drive. That's U.S. Park Police.

14 Q That's the main headquarters?

15 A Right.

16 Q And your present position?

17 A Is captain, rank of captain, assistant
18 commander, criminal investigations branch.

19 Q How long have you had that position,
20 please?

21 A Four years.

22 Q What was your position before?

1 A I was commander of the internal affairs
2 unit.

3 Q And when did you hold that position?

4 A I held that position from roughly, I guess
5 19 -- end of 1987 until the summer of 1991.

6 Q And then prior to becoming commander in the
7 internal affairs unit, what was your position?

8 A I was the station commander, what we call
9 in District 2, which is the district in Virginia and
10 Maryland.

11 Q When was the period of that position?

12 A I think I assumed that in 1985.

13 Q And then prior to becoming station
14 commander -- I just want to sort of go through --

15 A I was shift commander in 1984.

16 Q And before that?

17 A I was a sergeant and an investigator in
18 internal affairs before that.

19 Q And before that?

20 A If I remember, at that time I was a
21 sergeant in a criminal investigations branch.

22 Q How long were you a sergeant in criminal

10

1 investigations?

2 A One year.

3 Q And prior to that?

4 A I was a street sergeant for approximately
5 three or four years, something like that, three
6 years.

7 Q And then prior to that?

8 A I was a detective, name only, not rank, in
9 the criminal investigations branch for two years.

10 Q What was the period?

11 A That was 1977 to 1979.

12 Q And then going back?

13 A I guess from 1970 to '76, then -- and '77 I
14 was considered patrol officer, uniform officer.

15 Q And then did you join the Park Police in
16 1970?

17 A 1970, yes.

18 Q In connection with the investigation into
19 Mr. Foster's death, did you -- you prepared notes and
20 other documents and obtained other documents; am I
21 correct?

22 A What's the beginning of the question

1 again?

2 Q In the investigation of Mr. Foster's death,
3 you prepared various documents or obtained various
4 documents?

5 A Some, yes.

6 Q And there was a case file, I assume?

7 A Exactly.

8 Q And you may have had a note pad?

9 A I took some notes. I didn't use my note
10 pad. Well, when I say that, I'm talking about an
11 official notebook that a detective carried. I made
12 some notes at my desk, of course, and so forth.

13 Q To the best of your knowledge, have all of
14 the documents that you either received or prepared in
15 connection with the investigation into Mr. Foster's
16 death been provided to Interior Department counsel?

17 A I wouldn't know. You'd have to ask the
18 chief that, or his staff.

19 Q Did you turn it over to the chief?

20 A I've turned it over to whomever that was a
21 ranking officer that asked for it, yes.

22 Q But they did ask for all these documents at

12

1 some point?

2 A Right. I think the liaison was Major Hines
3 on most of that, but what he did with it, I don't
4 know.

5 Q You don't have any documents you haven't
6 turned over?

7 A I've given something to someone
8 constantly. I mean, either to the FBI or to an
9 official in the Park Police. I would have to say
10 yes, I've turned everything over that I have.
11 There's nothing that I haven't given to those that
12 have asked for it.

13 Q What were your responsibilities on July 20,
14 1993, which would have been the date of Mr. Foster's
15 death?

16 A I was the assistant commander, criminal
17 investigations branch.

18 Q What does it mean to be the assistant
19 commander of the criminal investigations branch?

20 A Oversee the various operations. I have two
21 operational lieutenants that actually run the
22 day-to-day operations from an operational

1 standpoint. Operations that need to take place out
2 on the street, they pretty much handle that.

3 And I'm also the -- I think my position
4 description says I'm the executive officer, which
5 means that I make sure the typewriters all work, that
6 the secretaries are at work on time and she performs
7 her duty, and that the administrative functions of
8 the branch are carried out. And of course, I act in
9 the absence of the commander.

10 Q Is there another assistant commander?

11 A I'm the only one.

12 Q So there's just a number one person and
13 yourself?

14 A Right.

15 Q So you would have responsibility for
16 overseeing all death investigations conducted by the
17 Park Police?

18 A At the second level -- third level,
19 actually. There would be a supervisor. Then there'd
20 be the commander of that unit, and then there'd be my
21 level.

22 Q Supervisor would be --

1 A Hold the rank of sergeant.

2 Q Would be a sergeant?

3 A Right.

4 Q And the commander would be a lieutenant?

5 A That's correct.

6 Q Is there someone below the supervisor?

7 That would just be the investigator?

8 A Detective or investigator.

9 Q And you report to the commander of the
10 criminal investigations branch?

11 A Yes.

12 Q Who was that on July 20, 1993?

13 A Major Benjamin Holmes, H-o-l-m-e-s.

14 Q Since 1970, which would be the time when
15 you joined the Park Police, approximately how many
16 death investigations have you been involved in in any
17 way?

18 MR. KRAVITZ: Do you mean up until today or
19 up until July 20, 1993?

20 MR. GIUFFRA: Up until today.

21 THE WITNESS: Involved?

22 BY MR. GIUFFRA:

1 Q Just roughly.

2 A I don't know.

3 Q Just a rough estimate.

4 A How many death investigations have I been
5 involved with --

6 Q Let me ask you another question. As a
7 patrol officer, you might have come across someone
8 who had been murdered or who was found dead; correct?

9 A It was a possibility.

10 Q You don't recall?

11 A I can recall in those 25 years responding
12 where a dead body was, but I don't have any specific
13 recollection that it was -- I can tell you now I've
14 never been a case agent on a death investigation
15 where I was specifically the case agent, that I
16 recall.

17 Q A case agent is the investigator?

18 A That's right. That's the person that's
19 assigned the responsibility to do the investigation.

20 Q But you have been --

21 A Ultimate responsibility.

22 Q But you have been a supervisor?

16

1 A Right, and a manager.

2 Q In your entire career at the Park Police,
3 in how many death investigations have you been a
4 supervisor, have you supervised?

5 A When I was in as a sergeant for that one
6 year, I distinctly recall one because I worked pretty
7 close with some of the investigators, and I clearly
8 recall the one when I was a supervisor. As far as a
9 manager, position of a manager, of course, it's been
10 quite a few: I think last year alone we probably
11 had, I guess around 40 or so death investigations,
12 and that's from motor vehicle accidents, natural
13 deaths, suicides, a variation of deaths.

14 Q Is that in an average, probably?

15 A Right.

16 Q Somewhere between 30 and 50 a year?

17 A I would say between 30 and 50. We used to
18 use a figure 50, but I don't think -- when I went
19 back and actually -- I got that from the previous
20 commander. He had said normally we do about 50 a
21 year, but I remember once going back and counting
22 them up, and I remember the figure like 42, I think.

1 Q In your present capacity and the capacity
2 you had on July 1993, you would be advised of death
3 investigations that were being handled by persons who
4 were your subordinates?

5 A Right. It would come to my attention
6 either through a lieutenant walking in and talking to
7 me or if I walk in the supervisor's office and hear
8 them talking, unless something very unusual -- the
9 day-to-day investigation, I wouldn't get involved
10 in. That would be my lieutenant or the sergeant.

11 Q In a normal case, anyway.

12 A Exactly. It's something unusual or
13 different, then I'd become more involved, of course.

14 Q Does that happen on a somewhat regular
15 basis?

16 A I wouldn't say on a regular basis, but it
17 does crop up. In the four years I've been as a
18 captain, I recall I was intimate, if that's a good
19 word to use, I was probably more intimate with than
20 the others, so that's less than one a year.

21 Q Of the 30 death investigations conducted by
22 the Park Police, how many are ultimately determined

1 to be suicides?

2 A I don't have an exact count on that.

3 Q What is your understanding of the Park
4 Police and the Interior Department?

5 A I think that's the parent organization.
6 That's a cabinet level we're under. There's Interior
7 and Park Service and then Park Police.

8 Q In your 25 years as a member of the Park
9 Police, on how many occasions have reports been made
10 to the Secretary's office with regard to an
11 investigation of any sort?

12 A I wouldn't have any idea. I assume you'd
13 have to ask the chief.

14 Q That you're aware of, though. Have you
15 ever had any dealings with the Secretary's office in
16 the course of your 25 years of experience?

17 A Yes, I have.

18 Q Other than the case of Mr. Foster's death,
19 on how many occasions have you had dealings with the
20 Secretary's office?

21 A I was the substitute lay part-time security
22 officer for the Secretary of the Interior.

1 Part-time, so it was something I did a few times in
2 security.

3 Q Other than with regard to being in a
4 security capacity or in connection with Mr. Foster's
5 death, how many other occasions have you had where
6 you've had dealings with the Secretary's office?

7 A I really can't recall any. 25 years is a
8 long time. Someone may have told me to call or get
9 some papers up there, but --

10 Q Nothing stands out in your mind?

11 A Not in the Foster situation, no.

12 Q We'll just move right into that. Now, am I
13 correct that Mr. Foster's body was discovered on July
14 20, 1993 in Fort Marcy Park?

15 A That's correct.

16 Q When did you become aware of the death of
17 Foster?

18 A The next day, which would be the 21st of
19 July.

20 Q And how did you become aware of the death
21 of Foster?

22 A When I got to work the next morning, I

20

1 learned about it.

2 Q Who advised you of his death?

3 A I don't remember. You know, I can tell you
4 who was there. Sergeant Roelle was there,
5 Investigator Braun, Investigator Rolla were there,
6 and there were some other investigators.

7 Q What time did you arrive, roughly?

8 A I would have to -- see, I've discussed all
9 this in another deposition, so if I say 6:30 and I
10 said 6:00 then, that's not a -- I usually get in
11 anywhere from 6:00 to 7:00. That's my normal
12 habits. Sometimes I'm there closer to 6:00,
13 sometimes closer to 6:30, sometimes 7:00.

14 Q We're not going to go through all that.
15 There's only a couple of questions that I'm going to
16 ask you that I just want to get -- that are relevant
17 to the phase we're now involved in for the
18 committee.

19 A You know, that concerns me. It's almost
20 two years ago that this happened, and then last year,
21 just about a year ago, I gave a deposition. And I
22 don't have that here in front of me to refer to those

1 answers, and I don't want to give an answer today
2 that I gave an answer different a year ago. I want
3 to do the best I can. Of course, I was truthful then
4 and I'm going to be truthful now, but you know, it
5 has been a while.

6 MR. KRAVITZ: We have a copy of it.

7 BY MR. GIUFFRA:

8 Q We have a copy of it. If you want to look
9 through it during the course of your testimony,
10 that's fine.

11 A I want you to just understand that --

12 Q There's no attempt being made here to trick
13 you or to see if your answers are any variances to
14 what they were.

15 A That's my concern.

16 Q We want to get --

17 A Not that you're going to trick me --

18 Q Just to give you a little background, the
19 last time you testified, the Independent Counsel
20 indicated that his investigations -- Mr. Fiske --
21 would have been adversely affected if the committee
22 had gone forward and looked into the handling of the

1 papers in Mr. Foster's office. The committee did not
2 look into that part of your knowledge with regard to
3 Mr. Foster's death.

4 A I did put some of that in the record. We
5 did talk about that.

6 Q There's a little bit of it in here. We
7 just want to fill in the blanks, so to speak, and the
8 preliminary questions are just preliminary questions
9 which, in fact, you actually did not go into as much
10 detail last time as you will this time.

11 It's your testimony that Investigators
12 Rolla and Braun were present when you arrived at the
13 office?

14 A That's correct.

15 Q What, if anything, did Rolla or Braun say
16 to you about an instruction that they had given to
17 have Mr. Foster's office sealed?

18 A There was none, to the best of my
19 recollection, directly to me. They could have
20 possibly said that to a supervisor, but I didn't
21 learn about that at that time at all.

22 Q Did there come a time when you were advised

1 that a request had been made to --

2 A Not that I recall, no. If one of them said
3 it, I was focused somewhere else and didn't hear it.
4 If one of them has testified that they told me that,
5 I don't recall.

6 Q Did you ever learn that a request was made
7 to the White House to have Mr. Foster's office
8 sealed?

9 A Yes, I did.

10 Q By Rolla or Braun?

11 A No. I learned it through the hearings last
12 summer. After the hearings; I found out after the
13 fact.

14 Q In the case of any death, the Park Police
15 conducts a death investigation; correct?

16 A With one exception. Some of the deaths
17 that occur in the District of Columbia are handled by
18 the Metropolitan Police homicide branch, not by the
19 Park Police.

20 Q What sorts of deaths are those?

21 A Well, they have jurisdiction over all
22 deaths, all deaths in the District of Columbia. I

24

1 believe that if there's a traffic fatality, I believe
2 we can handle that, but they have some oversight --
3 they're involved in that somehow.

4 That's, I guess, because of a medical
5 examiner. Perhaps the district law or whatever -- it
6 may be just that the medical examiner has that
7 authority to determine who will be that death
8 investigator. I may be wrong. It may not be long.
9 It may be the authority that's given to the chief
10 medical examiner.

11 Q But if a death occurs and it's within the
12 Park Police's jurisdiction, the Park Police conducts
13 a death investigation?

14 A Not in D.C.

15 Q Outside of D.C.

16 A Right, that's correct. In Maryland or
17 Virginia, where we have jurisdiction.

18 Q Now, why does the Park Police conduct a
19 death investigation?

20 A Because we're the ones that have the police
21 authority in the parks.

22 Q What is the goal of the death

1 investigation? What is your objective in doing the
2 investigation?

3 A To determine a cause and manner of death
4 and, if it was determined to be a homicide, to bring
5 the perpetrators to Justice, to make an arrest. If
6 it's a suicide, of course, it's to make that
7 determination that it was a suicide. Or if it was
8 accidental, if a person fell, occasionally we have
9 that where it's an accidental death. Sometimes we
10 have a natural death; it may be a heart attack or
11 something like that.

12 But to succinctly answer your question,
13 determine the cause and manner of death is why you do
14 the investigation.

15 Q In some cases -- strike that.

16 At some point in the course of a death
17 investigation, you determine what you believe -- the
18 Park Police determines what it believes to be the
19 cause and manner of death; is that correct?

20 A Yes, sir. I don't know that we ultimately
21 do that, but in conjunction with the medical
22 examiner, we come to that conclusion, yes.

1 Q And so if something is a homicide, that
2 will be a determination that you'll reach; correct?

3 A Eventually, yes.

4 Q If it's a suicide, you reach that
5 determination?

6 A Yes, sir, that's correct.

7 Q And if it's a death from natural causes,
8 you'll reach that determination?

9 A Yes.

10 Q What do you call that determination? Is
11 there a name for it? Is there --

12 A I'm confused. For what now, sir?

13 Q The determination and cause of manner of
14 death. When you make that determination, is there
15 a -- is it just a determination as to the cause and
16 manner of death? Is that what it's just called?

17 A Right.

18 Q Until you make that determination, does the
19 Park Police conduct a death investigation as if it
20 was a homicide investigation?

21 A That's the way all of them should be, yes.
22 All death investigations should be approached in that

1 manner.

2 Q So it should always be treated as a
3 homicide investigation until homicide is ruled out?

4 A Sure, sure.

5 Q I'd like to show you a document which we'll
6 mark as Park Police 14 and 15.

7 (Park Police Exhibit 14 and 15
8 identified.)

9 BY MR. GIUFFRA:

10 Q What is this document?

11 A That's a report that Sergeant Markland, who
12 was the detective at the time, wrote when we had
13 completed our investigation, death investigation.

14 Q What is the date of this report?

15 A I believe it's August the 5th, 1993.

16 Q So am I correct that between July 20, 1993
17 and August 5, 1993, the Park Police would have
18 approached its investigation into the death of
19 Mr. Foster as a homicide investigation until you made
20 the determination that it's a suicide?

21 A Officially, yes. To answer that -- to
22 continue to answer the first question, the preceding

28

1 question before you asked that one, you can start
2 making some assumptions as you go through an
3 investigation. I mean, it doesn't start here and
4 abruptly end here. You form opinions --

5 Q Over the course of an investigation?

6 A Yes. It's like how probable cause
7 develops, you get a little more, a little bit more, a
8 little bit more. It's not something that goes from A
9 to Z and abruptly stops. I don't want to confuse
10 you. That's why I'm a little hesitant when you say
11 is it ruled out a homicide.

12 I have to say yes, because that's the
13 ultimate thing that you want to do. You never want
14 to close a case, a death investigation, when there
15 was a possibility that it could have been a homicide
16 because then you've -- I'm trying to think of the
17 word, but you've not done justice.

18 Q As a matter of procedure, until you've
19 closed the case out, you treat it as if it's a
20 homicide investigation?

21 A To a degree, to a degree. I mean -- it
22 doesn't matter. A death investigation, until you get

1 to a point that you are certainly satisfied that the
2 conclusion that you're coming to is a good conclusion
3 and a proper conclusion, I'd have to say yes. But to
4 say on the morning that we went up to the White
5 House, that they had ruled out a homicide, in some
6 people's mind maybe they had and others perhaps not,
7 if that's where you're going with that.

8 Q In your mind, when had you ruled out that
9 Mr. Foster's death was a homicide?

10 A I'm sorry, did you mean that question that
11 way?

12 Q Yes. In your mind, when had you made a
13 judgment that Mr. Foster --

14 A You said was a homicide.

15 Q When had you ruled out the possibility that
16 Mr. Foster's death was a homicide?

17 A Wait a minute. Was a homicide or was not a
18 homicide?

19 Q Was not a homicide.

20 A Well, I can tell you on the 21st -- I'm
21 pretty sure it was the 21st -- I went to the
22 supervisor of the identification unit and told him to

30

1 process Mr. Foster's car. He basically wanted to
2 know why, and I said basically that's the procedure
3 you follow. I can tell you at that point I had not
4 ruled out anything. We were still following the
5 proper procedure, and that's what I intended to
6 follow throughout this case.

7 Q Proper procedure with regard to processing
8 the car meaning you don't give the car back to the
9 family?

10 A Right, until we do what we've needed to do
11 with it. Exactly.

12 Q Do you know when you ruled out the
13 possibility of a homicide?

14 A These questions are a little harder to
15 answer because of the context of two years and what's
16 gone on before today. Officially, I'd have to say
17 August the 5th; that's when I signed off on the file,
18 decided to put it to rest as an active
19 investigation.

20 That's when I thought all of what I
21 consider some loose ends, still a few things that had
22 to be done -- I think there was one thing that hadn't

1 actually been done yet. I don't think the final
2 analysis on the clothes and things that we sent over
3 to the ATF lab had been completed, but we had
4 obtained enough evidence from interviews and
5 processing that we were satisfied that it was a
6 suicide at that point.

7 But you know, it's like anything else. If
8 new evidence comes to light, you can reopen a case.
9 I don't recall ever reopening a case, but I can
10 assure you that if new evidence came to light -- and
11 I'm not talking about rumors or because someone else
12 doesn't think; I'm talking about evidence -- then a
13 case can be reopened even after it's closed and put
14 in the file.

15 Let me say this: When we went to the White
16 House that morning, everything that we would normally
17 do in an investigation had not been done, and I think
18 that's the best way to answer that question.
19 Everything we needed to do had not been done, and in
20 any investigation, whether it's still being
21 considered a homicide, suicide, or accidental,
22 everything had not been done.

1 Q On the morning of Mr. Foster's death, after
2 Mr. Foster's death, you chose Detective Markland to
3 be the investigating officer; am I correct?

4 A Yes, sir.

5 Q And you consider him to be -- did you
6 consider him to be a competent investigating officer?

7 A Yes, I did.

8 Q Do you have a high regard now for Sergeant
9 Markland?

10 A I do.

11 Q Do you think he's a highly qualified
12 officer?

13 A I do.

14 Q And in particular, he's highly qualified to
15 investigate -- to conduct a death investigation?

16 A I thought so, yes.

17 Q Now, you, and then Detective Markland went
18 to the White House on the morning of the 21st.

19 A Yes, sir.

20 Q Do you recall about what time you arrived?

21 A I'm going to say approximately 11:00. And
22 when I say approximately, it could be a little before

1 11:00. I don't think it was a whole lot after

2 11:00.

3 Q Do you recall, when you arrived at the
4 White House, did you go to -- do you recall what you
5 did next after you arrived? Did you go to the ground
6 floor area?

7 A Right.

8 Q Did you come through the southwest gate?

9 A I think that's considered the southwest.
10 I'm just trying to get my compass points. I believe
11 it's the southwest.

12 Q You walked up West Executive Avenue?

13 A I think that's West Executive Avenue.

14 Q And then you made a right into an awning --

15 A Canopy awning, that's correct.

16 Q Do you recall who met you there?

17 A I do. I know his name this time.

18 Inspector Dennis Martin.

19 Q And who was Inspector Martin?

20 A He is a Secret Service -- I think he's with
21 the uniformed division of the Secret Service. To the
22 best of my recollection, he had a uniform on, but I

1 could be wrong. I know there were some uniformed --
2 I saw various uniformed Secret Service people because
3 they were at the gate, but I think he might have been
4 in uniform.

5 Q Did you meet a Secret Service agent by the
6 name of Imbordino?

7 A Eventually. Not right away.

8 Q Did you meet any FBI agents at that point?

9 A Later on that day, later that afternoon.

10 Q What was the purpose of your visit to the
11 White House?

12 A We wanted to complete those things that we
13 felt needed to be done in a death investigation.

14 Q What were some of those things you wanted
15 to conclude?

16 A We wanted to interview the people that last
17 saw him alive. We wanted to talk to those people
18 about his -- how he was that day, his disposition,
19 his demeanor, his well-being, try to determine if
20 there was anything that would indicate why he ended
21 up dead in Fort Marcy Park. We wanted to have access
22 to some of his papers and things in his office to see

1 if there was something there that may have caused him
2 to end up at Fort Marcy Park dead.

3 Q With regard to the question of seeking
4 access to his papers or his office, did you discuss
5 that subject with anyone before you arrived at the
6 White House?

7 A My immediate co-workers, staff; and I mean
8 by that the sergeant. He was the only other one
9 there besides the detectives and investigators.

10 Q Do you recall what you said to the
11 sergeant?

12 A As I mentioned earlier, in my previous
13 deposition, I guess at some point I may have thrown
14 out some questions. There might have been a bunch of
15 us around like this. Have we done this? Have we
16 interviewed the Mrs.? Have we gone to the office?
17 Have we this, those are things we need to do, kind of
18 tick things off, what things still do we need to do,
19 kind of like a shopping list of things that had to
20 have been completed that hadn't yet.

21 Maybe they said okay, a couple things
22 happened. I can remember something, probably like I

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1 was surprised that Mrs. Foster hadn't been
2 interviewed. And I can remember one of the
3 investigators saying we just couldn't accomplish that
4 because of her state of mind, her condition, and also
5 because there was an interruption, most unusual. The
6 President showed up that night.

7 Q Do you recall, just to be certain on this
8 point, having issue of whether the office had been
9 sealed --

10 A I already answered that. I already
11 answered that.

12 Q Captain, let me show you a document which
13 we'll mark as F2892 through F2897. This appears to
14 be something called a form 302, FBI investigation
15 report on the interview with you.

16 (Exhibit F2892 through F2897 identified.)

17 BY MR. GIUFFRA:

18 Q Perhaps if you could read that.

19 (Witness reviewed document.)

20 (Pause.)

21 A Do you want me to read the entire thing or
22 is there something in particular you want me to focus

1 on?

2 Q I'd like you to read the entire thing
3 because we can speed up the process. And to the
4 extent your recollections are going to be slightly
5 different because of the passage of the time, maybe
6 these documents can refresh your recollection.

7 A For one thing, this date must be wrong.
8 1912 -- what's the date on that first one?

9 MR. KRAVITZ: Down at the bottom?

10 THE WITNESS: More at the top.

11 MR. KRAVITZ: It says 1/26/93.

12 THE WITNESS: That can't be right because
13 this has 12/20/93. It must be 12/20/93. Okay. Who
14 did I give this to? I told this story so many times
15 to so many people. This is an interview at FBI
16 headquarters? I don't remember an interview at FBI
17 headquarters. Who did this interview?

18 BY MR. GIUFFRA:

19 Q This was conducted by an FBI agent.

20 A I don't see that much wrong with what I've
21 said yet, but I can't remember this. FBI
22 headquarters -- I was interviewed by the special

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1 counsel people. I was interviewed by this office of
2 professional responsibility. It could have been an
3 FBI agent. I don't remember. I thought I was over
4 at the Justice Department. I think of FBI
5 headquarters as 10th and Pennsylvania, that big
6 building. That may be.

7 Q With regard to the substance of the
8 interview, does it appear to be --

9 A So far.

10 MR. KRAVITZ: Bob, can I ask you why it is
11 you're showing Captain Hume this lengthy memorandum
12 of an interview that he doesn't remember giving? I
13 don't believe that he said there's anything that he
14 doesn't remember in response to any of your
15 questions. What's the purpose of this? Are you
16 trying to refresh his memory on any particular
17 point?

18 MR. GIUFFRA: I want to make him --

19 THE WITNESS: Let me ask you this: Can I
20 take a break and go to the restroom first? I could
21 probably concentrate on this a little better if I'm
22 not sitting here squirming, if you don't mind.

1 MR. GIUFFRA: Let's go off the record.

2 (Discussion off the record.)

3 (Recess.)

4 MR. KRAVITZ: I want to put an objection on

5 the record. I just want to say on behalf of the

6 democratic members of the Senate committee, I object

7 to the procedure that we're following right now where

8 Mr. Giuffra has provided this witness with a

9 six-page, single-spaced, typed report purportedly to

10 refresh the witness's recollection even though the

11 witness has not said that his recollection needs to

12 be refreshed. It's a report not written by this

13 witness, even though we have reports written by this

14 witness that would be better to refresh his

15 recollection.

16 We're wasting a lot of time. Republican

17 staff started their deposition at 9:30. We know we

18 have to finish by 3:00 with a lunch break because we

19 all have to attend a meeting between 1:00 and 2:00,

20 and I want to make sure that we, the Democratic

21 staff, have plenty of time to ask our own questions.

22 And I'm formally requesting that Mr. Giuffra finish

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1 his questioning by 12:00 or 12:30 so at least I have

2 a third as much time as he did to ask questions.

3 MR. GIUFFRA: I'd like to make a

4 statement. On July 23, 1994, the Democrats conducted

5 the deposition of Cheryl Braun. Mr. Ivey, on page

6 495 of the hearings of the question, requested that

7 Ms. Braun -- this is at the very beginning of her

8 deposition -- read her FBI 302. She was then given

9 an opportunity to read the FBI 302. This was on page

10 8 of her deposition, and she was asked a question:

11 "Now, does Exhibit 1 fairly and accurately reflect

12 what you said in your interview to FBI investigators?

13 "Answer: Yes."

14 Then he proceeded to ask her a series of

15 questions. The procedure that I'm following is

16 precisely the same procedure that Mr. Ivey followed

17 last year. This witness is concerned about whether,

18 because the events are two years ago, about whether

19 he's going to accurately reflect them. This is

20 simply an attempt to refresh his recollection so this

21 deposition can proceed at a faster pace, period.

22 MR. KRAVITZ: Well, I think that the

1 deposition ought to proceed at a faster pace, and I'm
2 expecting you to leave me plenty of time before 3:00
3 to ask my questions.

4 MR. GIUFFRA: I'm going to try to.

5 BY MR. GIUFFRA:

6 Q Captain Hume, can I ask one question? Does
7 reading this document help refresh your recollection
8 with regard to these events?

9 A You know, some. This is someone's
10 interpretation of what I told them. It's written --

11 Q Would you prefer --

12 MR. KRAVITZ: Let him finish his answer.

13 THE WITNESS: You know, it's the basic
14 story. I know the basic story.

15 BY MR. GIUFFRA:

16 Q Do you want to have us start asking
17 questions without referring to it?

18 A Something prompted this young fellow to
19 hand this to you, and if you go back and ask me that
20 question, maybe I can answer it. I'm a police
21 officer, and I'm used to answering the question
22 that's asked of me. And you asked me something, and

1 I gave you the answer. And apparently someone didn't
2 think it was the correct answer or something. You go
3 back and ask the question again, and I think I can
4 answer it --

5 MR. KRAVITZ: I have to say just on the
6 record --

7 THE WITNESS: -- to the way that you wanted
8 it answered.

9 MR. KRAVITZ: My interpretation is exactly
10 the same as Captain Hume's. I think Mr. Giuffra has
11 given Captain Hume this 302 report for some purpose
12 of impeaching something that Captain Hume said
13 previously and not, as he has said, for the purpose
14 of refreshing his recollection because I agree with
15 Captain Hume.

16 He said something and immediately
17 Mr. Giuffra's assistant came out with this 302
18 report. If there's something inconsistent in the
19 report, show it to him and ask if it refreshes his
20 recollection.

21 MR. GIUFFRA: There's nothing inconsistent
22 in the report that I'm aware of.

1 THE WITNESS: That's the general gist.

2 BY MR. GIUFFRA:

3 Q It would be your testimony that -- this

4 302, would it accurately reflect your understanding
5 of these events?

6 MR. KRAVITZ: And before you answer that
7 question, I object. Before you answer that question,
8 you ought to find out whether he means every single
9 word in that 302 --

10 THE WITNESS: Believe me, sir, I was. In
11 general, that reflects what occurred generally.

12 BY MR. GIUFFRA:

13 Q Is there anything specifically in here that
14 did not occur?

15 MR. KRAVITZ: Do you want him to go line by
16 line and tell you?

17 THE WITNESS: I read it. I was listening
18 to you. I thought you were trying to say Cheryl
19 Braun told me something, and I was listening to that,
20 so it's -- I'd have to go back and, like this
21 gentleman said, take it line by line and comment on
22 every line, I guess. Generally, that reflects what

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1 occurred up there.

2 BY MR. GIUFFRA:

3 Q When you arrived at the White House on the
4 morning of the 21st -- you met Chief Langston and
5 Major Hines that morning?

6 A They were there, and we did have an
7 encounter with them.

8 Q What do you remember about that encounter?

9 A I was surprised to see him there. I didn't
10 know they were there.

11 Q Why were you surprised?

12 A I just was. Normally when I go to
13 investigate things, I don't run across the chief and
14 his assistant and his major.

15 Q Did Langston and Hines say anything to you
16 at that point about sealing Mr. Foster's office?

17 A Not that I recall, no.

18 Q Do you recall asking anyone to seal
19 Mr. Foster's office that morning?

20 A Yes.

21 Q Who did you recall asking to seal the
22 office?

1 A I don't know if I specifically did it, but
2 I'm talking about Markland and I. Sometimes when I
3 say things, I'll answer that collectively, probably
4 for both of us, unless you try to get me to be a
5 little more specific that it was me or Markland. But
6 what we did, I remember making a remark to Pete
7 Markland to note in his notebook the time that we
8 asked, through Inspector Martin, to have that room
9 sealed. Yes.

10 Q So it's your recollection that you asked
11 that the office be sealed through Inspector Markland?

12 A That's right.

13 MR. KRAVITZ: I think he said Martin.

14 THE WITNESS: Martin, I think it's
15 M-a-r-t-i-n.

16 BY MR. GIUFFRA:

17 Q Did Inspector Martin say anything about
18 whether the office had been sealed at that point?

19 A Right. My best recollection is he may have
20 made a phone call, and he came back and he said the
21 office has already been sealed.

22 Q Did he say when the office had been sealed?

1 A He may have. I don't recall -- I mean,
2 eventually I did learn a time of when it was sealed.
3 It was not that far in advance of when we made our
4 request. I want to say like around 10:00 a.m. that
5 morning, sometime in between that and the time we
6 asked, so we're not talking a great deal of time.

7 Q What does it mean to you to seal an office?

8 A To shut it up and not allow anyone in it.

9 Q Do you know what it means to post an
10 office?

11 A Not really. I mean, I think that's a term
12 that maybe Secret Service have posts and, like, back
13 in the days when I was a police officer, I might be
14 posted. If you had an event where the President was
15 going to come and visit, you would be given a post
16 and you'd be posted there. Obviously, if you're
17 posted at a particular place, you're not supposed to
18 allow -- you're only supposed to allow authorized
19 people in.

20 Q Would it be fair to say if an office is
21 sealed, no one can enter an office whereas if an
22 office is posted, authorized persons can enter and

1 leave the location?

2 A You know, I'm not -- I don't know how to
3 answer that, really. I can guess, assume,
4 speculate. I don't know. I can tell you what I
5 wanted. I wanted the office sealed for no one to go
6 in.

7 Q Why is that?

8 A So the office could be examined for
9 anything that might assist us in the death
10 investigation.

11 Q Were you looking for -- what sort of
12 evidence were you looking for?

13 A Evidence that might shed a light on why he
14 was dead in Fort Marcy. I don't know if I can -- we
15 don't know what it might be. You don't know until
16 you get down and examine what's there. A suicide
17 note would have been nice. It sure helps things
18 because at that point, I think some of us were
19 leaning in direction. As you recall earlier, we
20 developed things as we go along.

21 Q Were you looking for a diary, possibly?

22 A That would have been one of the things we

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1 would have liked to have had.

2 Q Financial records?

3 A Certainly. Those kind of things, personal
4 things or anything that would shed -- what made that
5 man get up from his desk at around 1:00 p.m. on that
6 day before and go to the park and put a gun in his
7 mouth and kill himself.

8 Q Were you also looking to ascertain,
9 perhaps, what his movements were in the last hour of
10 his life, see if he had any appointments?

11 A Right. That's why you interview the people
12 who last saw him alive. Oh, yeah.

13 Q And while you were leaning at that point in
14 favor -- while some Park Police investigators were
15 leaning in favor of the determination that this was a
16 suicide, is it fair to say there might have been
17 evidence in the office that might have leaned in the
18 opposite direction, conceivably?

19 A Oh, sure. We had not officially signed
20 that investigation off. We had not completed the
21 investigation.

22 Q Did Langston or Hines say anything to you

1 about sealing the office?

2 A I don't remember having a conversation
3 about sealing the office of those two people, no.

4 Q You spent several hours, am I correct, in
5 the lobby of the west wing that morning?

6 A No, because we left and went and got
7 lunch. Nothing was happening. Eventually -- Pete
8 and I both bring our lunch with us, we're what we
9 call brown baggers -- we went to the office and had
10 lunch and came back up that afternoon and went back
11 over in the Executive Office Building, actually.

12 Q About how long were you in the west wing
13 lobby that morning, though? An hour, two hours?

14 A I would say closer to an hour, perhaps two.

15 Q During that time period, did you learn that
16 someone might have removed, taken a box from a higher
17 floor in the west wing to a lower floor and then
18 removed it from the west wing?

19 MR. KRAVITZ: Can you repeat that
20 question.

21 (The reporter read the record as requested.)

22 THE WITNESS: Might have, that was the

1 question?

2 BY MR. GIUFFRA:

3 Q Yes.

4 A You know, that has come up. At what point,
5 I don't know. I can vaguely remember someone had
6 said something to Pete Markland because I can
7 remember Pete, what was that, and I sensed that it
8 was someone trying to be helpful, I guess, at giving
9 us some information, but I wasn't real clear on
10 exactly what it was or what the significance was at
11 the time because I'm not sure of the time frame of
12 all of this. I know there was a point, but I seem to
13 think that's all it was, was might have. I don't
14 think there was ever -- I don't ever recall anything
15 being concrete.

16 As a matter of fact, I think it's one of
17 those things where -- I personally didn't put a whole
18 lot of credibility in it. I mean, I didn't see it as
19 real significant at the time. What time period that
20 was, again, I don't know. And it seemed like Pete
21 Markland had a grasp of that.

22 Q So this is information, as far as you knew,

1 that was relayed to Detective Markland?

2 A More directly, as best I recall on that. I
3 guess later -- you know, it's hard, too, looking back
4 on it later. If I knew everything today that I knew
5 that day, I might have put more credibility or more
6 interest in something like that. I almost want to
7 say it was like one of these things -- I don't know,
8 it's kind of a sense you have: Okay, the police are
9 here, but what are they going to find? Because hell,
10 someone was seen with a box like what you guys are
11 looking for is gone already, and that's looking back
12 on it now. I just didn't put a whole lot of weight
13 on it at the time, I guess.

14 Q Was that your impression of what had
15 happened?

16 A I don't know if I made that impression.
17 That's what I'm saying. Remember this conspiracy
18 thing -- even today there was something about the
19 Foster thing. It never stops, so it's very hard to
20 look back after two years. Let's put it this way:
21 At the time, it just didn't seem to be a big piece of
22 evidence that we had to go after, and that we really

1 had to concentrate on. I just don't recall it being
2 that. Why, I don't know.

3 Q But you do recall at least someone -- do
4 you know if it was Markland mentioning to you that a
5 box had been taken down from a higher floor --

6 A Look, I didn't even know where Foster's
7 office was at the time. I didn't know floors, I
8 didn't know any of that. Because someone was seen
9 walking with a box in the White House -- I mean, it's
10 a big place. So what? At that point, I didn't see
11 or didn't sense any great relevance. Maybe I was
12 remiss. I don't know. It's like many phone calls
13 that we got and many other things about, well, this
14 is what happened. Some people in black uniforms
15 jumped out and killed Foster. How much credibility
16 are you going to put in that?

17 Q All I want to do is try and get the sense
18 of what your recollection is. You have a
19 recollection of -- we'll just say something about a
20 box.

21 A I can say that at some time during that
22 time period we spent at the White House, I do vaguely

1 remember something about a box, but not putting a
2 whole lot of weight on it, not a lot of
3 significance. I'm sure you all have talked to Pete
4 Markland. Maybe he has cleared this up a little bit
5 better. I personally did not interview anyone about
6 that box.

7 Q So you basically now have provided
8 everything that you know about the box? You
9 testified to everything you know about the box?

10 A Well, I got a call two mornings ago -- or
11 was it yesterday morning -- from somebody from
12 Associated Press saying well, we just wanted to let
13 you know that the prosecutor has been looking for a
14 second person that was seen carrying a box or with a
15 person carrying a box. I said fine, tell the FBI
16 agents; my case is closed. So the box doesn't go
17 away. The box will probably be with us for a long
18 time.

19 MR. KRAVITZ: Probably be Congressional
20 investigations about that box for the next decade.

21 THE WITNESS: Right.

22 BY MR. GIUFFRA:

1 Q Did Langston or Hines mention anything to
2 you about the briefing they had at the White House?

3 A There again, I don't remember having a
4 conversation with the chief. I'm sure we exchanged
5 pleasantries. With Major Hines, I said Major, when
6 are we going to get to go in and do this thing in the
7 office? He said when the FBI gets here. Okay. And
8 that pretty much was the extent of this. I sensed he
9 was a little confused at who was supposed to call the
10 FBI. I think I eventually called them.

11 Q That morning you did not search the office?

12 A That's correct. We never searched the
13 office.

14 Q While you waited in the lobby of a west
15 wing, did you meet with Mr. Nussbaum?

16 A While we were there -- to the best of my
17 recollection, it was still Pete Markland, myself and
18 Dennis Martin, still a little confused as to what the
19 next move was going to be, as the next thing we would
20 be doing; we were still not real clear on that -- a
21 gentleman came down with a lady, and I'm pretty sure
22 introductions were made.

1 And I'm pretty sure one of them was
2 Mr. Nussbaum, and the other lady, I'd guess later
3 perhaps it was Maggie Williams, but I'm not sure. I
4 don't know her. I've never met her. I don't know
5 why I came to that conclusion even now.
6 I remember a conversation while I spoke the
7 words of Pete or both of us, but I remember we
8 determined a couple of things. We want to know when
9 we can get up to Foster's office. He said well, when
10 the Justice Department gets here. I said, or Pete
11 says, did you call. I said no, did you call. It was
12 kind of like when they get here; who called? Well,
13 it's your responsibility, you call.
14 Well, I had never been told to call the
15 Justice Department. I was told when the FBI gets
16 here, but I guess from the conversation I later had
17 with Major Hines, that's what he thought the Justice
18 Department meant, was the FBI. We think of Justice
19 Department, we think of law enforcement counterparts,
20 I guess, FBI. That, perhaps, was natural, but I'm
21 sure you've talked to Major Hines and he's explained
22 that perhaps more accurately. I just have to give it

1 to you, of course, from my perspective.
2 Q Did you ever object to not being allowed to
3 search Foster's office that morning?
4 MR. KRAVITZ: You mean, did he ever state
5 an objection?
6 MR. GIUFFRA: Let me ask --
7 MR. KRAVITZ: You're asking misleading
8 questions. He doesn't have a lawyer here, and I want
9 to make sure he understands the question. He may
10 have been frustrated, but he might not have said
11 anything about it.
12 THE WITNESS: I like that. I was probably
13 a little frustrated. I'm not sure who I would object
14 to. I didn't object.
15 BY MR. GIUFFRA:
16 Q Did you say anything to Mr. Nussbaum like
17 we'd like to go and visit the office?
18 A No, I did not.
19 Q You felt frustrated?
20 A Well, there was still some things to
21 complete the death investigation had to be done. We
22 still had to interview those persons that would have

1 had contact with him prior to his death. We still
2 had to accomplish that, and we still had to see if
3 there was anything there. Perhaps he had a pad by
4 his phone, and perhaps he was out making some notes
5 while he was on the phone. He got some disturbing
6 news. At that point, we don't know.

7 Even if we had enough evidence to say it
8 was suicide at that point, we still don't know what
9 drove him to the suicide. We still need to do an
10 investigation as to what would cause him to do that.
11 So frustrated that yes, we needed to do that, but --
12 we were not used to going to the White House to
13 conduct investigations.

14 Q Did you say anything to Inspector Martin?

15 A We asked him to have the office sealed. If
16 that's the exact word, I'm not sure. I don't think I
17 used the word "post" because I don't normally use
18 that word. I would have used "sealed" or "closed" or
19 something.

20 Q Did you say to Inspector Martin, we'd like
21 to go up to the office and --

22 A That's why I'm sure -- Pete made the

1 arrangements that morning to get us up there. I'm
2 sure Mr. Martin was very aware why we were there. I
3 didn't throw a temper tantrum.

4 Q So you basically --

5 A If I was here in Southeast and had a
6 warrant -- even if I didn't have a warrant and I knew
7 or suspected that there was evidence in the house,
8 believe me, I would handle that entirely different
9 than what I would have done at the White House.

10 Q Basically you were going to sit there until
11 the White House officials said you could come up to
12 the office?

13 A I don't think I had any other choice. I
14 did all I could. I called the chief. I let him know
15 what was going on, eventually.

16 Q While you were sitting in the west wing
17 lobby, you made a phone call to the chief --

18 A No, remember the chief and Langston -- I
19 mean, Chief Langston and Major Hines had actually
20 been there. It was after I got back from lunch that
21 we went over to EOB to an office that the
22 Secret Service had over there. At some point in time

1 then I called Chief Langston.

2 Q What did you say to Chief Langston?

3 A I guess I told him -- maybe that's where I
4 did my objection at that point, to him, that we
5 hadn't been able to accomplish what we had come up
6 there to do. I don't remember the exact words, but
7 that was the gist of it, I'm sure.

8 Q Did he say he would try to take care of it
9 for you?

10 A He said he would call Janet Reno.

11 Q Did he say why he thought he had to call
12 Janet Reno?

13 A Why he had to call her? I don't recall him
14 telling me why. I do recall him telling me some
15 statement she had made. He had been at a conference
16 and he had recalled her saying something to the fact
17 if the police chief needs to call me I will talk to
18 him or return the call or something like that. Why
19 he decided -- maybe that's the only person he knew
20 of. Maybe he figured that person would get something
21 done. There again, I'm sure you've asked him. I
22 don't remember.

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1 Q What was Mr. Nussbaum's manner towards
2 yourself and Detective Markland?

3 A At that point, that morning?

4 Q Yes.

5 A Well, basically, asked and told him what we
6 needed to do, and he said when the Justice Department
7 gets here you can do it. And I think we accepted
8 that at that point, accepted it -- not finished with
9 it, of course, but he's made the statement. What's
10 the next step? What do we do next? How do you put
11 this into motion? I guess that's what we needed to
12 know, how to put that into motion. At that point, I
13 hadn't really formed an opinion --

14 Q Was he condescending?

15 MR. KRAVITZ: Let him finish the answer.

16 THE WITNESS: Sometimes we're quick to form
17 opinions of people, but at that point I hadn't formed
18 any real opinion about Mr. Nussbaum.

19 BY MR. GIUFFRA:

20 Q Was he condescending?

21 A You know, I didn't really sense that, no.
22 Not at that point.

1 Q Was he later condescending?

2 A You know, I'm sure I've thought about
3 Mr. Nussbaum a lot, and I don't want to be unfair to
4 him. I've had my personalities over the years, and
5 sometimes it changes as we get older. Perhaps mine
6 has changed, but I think he felt -- maybe it was the
7 way he had to do things, and that's the way he had to
8 do business, and he felt he was right. And I'm sure
9 Pete and I felt we were right, that there were still
10 certain things we needed to finish our investigation
11 and we felt we needed to do that.

12 And I wanted to use the channels that was
13 available, and I was calling the chief and doing this
14 thing in as sensitive, diplomatic a manner as we
15 could. I had people I could have sent up that would
16 have done it differently, I can tell you that. They
17 would have done it like they do it Southeast in the
18 ghetto, going into someone's home, and that's
19 inappropriate at the White House.

20 Q Were you concerned about a loss of evidence
21 because of the delay in your opportunity to search
22 the office?

1 A I'm sure I was, if there was any evidence
2 that would be a concern because some of these things
3 you want to do as soon as you can. But the fact that
4 the office wasn't searched that night didn't strike
5 me as a terrible problem at the time because we only
6 had a limited number of people working that night,
7 and I don't think we even had a supervisor.

8 And this was a really complicated case,
9 unusual case. If it had been a routine case,
10 run-of-the-mill case, and maybe one of my
11 investigators didn't go as far as they could from A
12 to Z, I would have had a little more concern. But I
13 think two investigators were up against a lot, and I
14 think they probably performed quite well with
15 everything considered. I don't know if I answered
16 that question or not.

17 Q In retrospect, do you think someone should
18 have gone to the White House the night of
19 Mr. Foster's death?

20 A Oh, that's quarterbacking and retrospect.
21 That would have been great if we could have done
22 that, but I don't know what the result would have

1 been.

2 Q While you were at the Old Executive Office
3 Building, do you recall any other phone calls you
4 might have made?

5 MR. KRAVITZ: Are you implying by that
6 question that he made any phone calls in the Old
7 Executive Office Building?

8 MR. GIUFFRA: Could you please read that
9 question back. And I'm going to state an objection.
10 Read the question.

11 (The reporter read the record as requested.)

12 MR. KRAVITZ: My question is the same
13 thing. Are you implying by that question -- has he
14 testified that he made any phone calls from the Old
15 EOB?

16 MR. GIUFFRA: Yes, he did. If you paid
17 closer attention, you will recall that he called
18 Chief Langston.

19 MR. KRAVITZ: From the Old EOB?

20 MR. GIUFFRA: Yes, he testified to that.

21 MR. KRAVITZ: Is that right?

22 THE WITNESS: I think I did.

1 MR. KRAVITZ: I apologize. I thought he
2 said he called him over lunch.

3 MR. GIUFFRA: And I'd like to state for the
4 record when we review the prior depositions in this
5 matter, people are not sitting and objecting every
6 three questions. What's good for the goose is good
7 for the gander. I sit silently while you're
8 conducting your examination, and I'd appreciate the
9 same courtesy.

10 BY MR. GIUFFRA:

11 Q Would you please answer the question.

12 A I recall having other conversations. At
13 this point, I may have given that phone number to
14 Major Hines or Chief Langston, so I don't know if I
15 was making them -- if I made them all as originator
16 or if I received some calls. There was a lot going
17 on.

18 I can remember somebody from the U.S.
19 Attorney's office in Virginia paging me or calling
20 me. I probably talked to Langston and Hines more
21 than once, but I don't recall. And I remember having
22 two conversations with Phil Heymann from the Justice

1 Department, and I think one person from the U.S.
2 Attorney's office was -- I don't know how many
3 conversations I had, but it was a guy named Larry
4 Leiser, L-e-i-s-e-r, I believe.

5 Q What do you recall about that conversation?

6 A With Larry Leiser?

7 Q Yes.

8 A They wanted a briefing, wanted an update or
9 something on the case, and I guess this has been -- I
10 don't think that was the first phone call I had with
11 he or one of his staff people or subordinates. I can
12 remember getting a phone call even at the office that
13 morning, a briefing on the case. Quite frankly, it
14 was more of kind of a nuisance than anything else,
15 and I do remember him saying -- I believe it was
16 Larry Leiser or somebody from the U.S. Attorney's
17 office in Virginia -- that they were coming up to the
18 White House. And at that point I told them maybe
19 they should check with the Justice Department because
20 Phil Heymann was sending over two people from the
21 Justice Department, and that's the last I heard from
22 him.

1 Q What do you recall about your phone
2 conversation with Mr. Heymann?

3 A I recall that he told me who he was -- I
4 mean, by the fact that he was the number two person
5 at the Justice Department -- and I remember him
6 giving me some phone numbers that I could call if I
7 had any problems or questions, I assume, or
8 difficulty or whatever. But he made a couple things
9 pretty clear: Who he was, and that I could certainly
10 contact him if I needed to, either him or his
11 subordinates. I'm not sure now, but I think he gave
12 me his phone number because he gave me also a number
13 for the control center.

14 And I recall him telling me -- him or the
15 chief -- there would be two career Justice Department
16 people coming up to the White House to assist us.
17 Well, I don't know if -- I guess I shouldn't use the
18 word "assist." Maybe I assumed that, to assist us.

19 Q You thought you were still running the
20 investigation?

21 A I think probably at that point. No one
22 else is -- the FBI is there, but they don't seem

1 interested in taking care of the case. A couple of
2 agents got there, but we're all kind of in the same
3 situation. What do we do next? And I recall him
4 telling me that we would be allowed into the office,
5 best I recall, and that he explained to me how the
6 examination of documents in there would be
7 determined.

8 Q And this is Mr. Heymann?

9 A Right.

10 Q What did he specifically say to you about
11 how the examination of documents in Mr. Foster's
12 office would be conducted?

13 A Well, I'm not real sure I can remember
14 exactly because I wasn't real clear if I understood
15 it on the phone. Because I asked him -- and maybe I
16 repeated what he told me to him or something like
17 that because I guess I went back over what he had
18 told me. And I remember I didn't quite understand it
19 clear enough because I remember him going back over
20 it again. My first impression was not the
21 impression, the final impression, I guess.

22 Q What was your first impression?

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1 A My first impression was that the documents
2 would be looked at by the Justice Department
3 attorneys. And if there was something there -- I
4 guess I wasn't thinking Presidential security or
5 Presidential -- what's the word that they use on
6 these documents --

7 Q National security?

8 A Well, getting to that --

9 Q Privileged?

10 A Privileged. I guess I wasn't thinking a
11 whole lot about executive privilege because, like I
12 said, I never dealt with the White House in this type
13 of manner. I guess I can understand some of that
14 even though I had a security clearance.

15 Q Did you have a top secret clearance?

16 A Yeah, at one time. I had a clearance -- I
17 had a White House pass, so I don't know. I think so,
18 and I probably have told people I did. And I think I
19 did because I remember I had to get fingerprinted.
20 See, there's different clearances, and I'm never real
21 sure on these clearances.

22 Q Do you want to take a look at your prior

1 deposition?

2 A Sure.

3 MR. IVEY: Do you have a page and line
4 number?

5 MR. GIUFFRA: If you can take a look at
6 page 56, right here.

7 MR. IVEY: What line?

8 MR. GIUFFRA: Just read the page, if you
9 want. There's the question and there's your answer,
10 starting on line 6.

11 THE WITNESS: That's what I just said.

12 BY MR. GIUFFRA:

13 Q Then you discuss --

14 A Yeah, I said I guess I had a top secret
15 clearance because I had that White House pass. I
16 think I said the same thing. I mean, if you want me
17 to use the word I was a little taken aback or
18 personally insulted by the fact that I couldn't look
19 at a document, I think I did say that, but I got over
20 that real quick. I mean, it wasn't something that
21 traumatized me.

22 Q And then what was the later procedure that

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1 you spoke of?

2 A Did I finish answering that question?

3 Q Keep going.

4 A He said they would look at the document and
5 once they determined perhaps it was not national
6 security or whatever, then they would let us look at
7 the evidentiary value. Because for the life of me --
8 I don't know if I said this or not -- almost a couple
9 years, I guess, to think about some of this -- how
10 could two fellows from the Justice Department make a
11 determination? Because I don't remember them -- we
12 could have briefed them, but I don't really
13 remember. I might look at this table, and I know
14 something about a case, and I would see something
15 that would be evidence that maybe perhaps one of you
16 gentlemen wouldn't.

17 Q You were disturbed about the fact --

18 A I thought I would be in a better position,
19 I and Detective Markland -- because he was kind of
20 the point man, the focal person as far as the
21 notebook and taking of notes and making sure the
22 inquiry, all the things were covered that we

1 needed -- that we would be in a better position to
2 determine what would be considered crucial to our
3 investigation or at least essential to our
4 investigation.

5 Q Than would the Justice Department
6 attorneys?

7 A Oh, correct. Right.

8 Q Did you think that the Justice Department
9 attorney would look at the documents and ultimately
10 show them to you or not show them to you at all?

11 A My first impression is they would show them
12 to us, but the -- when I tried to get a little bit
13 better clarification or continue to discuss that with
14 Mr. Heymann, it got a little more clearer perhaps we
15 were not going to see those documents at that time or
16 ever. I don't know if he said you'd see them later
17 or what. I don't remember that.

18 Q Was it your understanding that this
19 procedure had been worked out with Mr. Nussbaum,
20 between Mr. Nussbaum and Mr. Heymann? Did
21 Mr. Heymann say he had spoken to Mr. Nussbaum and
22 they had agreed upon --

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1 A No, I don't recall that at all. I think I
2 would have remembered that, but I don't remember
3 that. I do sense, and I've probably said that before
4 in a deposition, perhaps Mr. Heymann talked to
5 someone from the time of the first conversation until
6 we had the second conversation because I vaguely
7 remember -- I guess maybe I asked him who was coming
8 down or maybe I asked the chief -- I asked someone
9 who are these two gentlemen, and I can remember
10 saying they were career employees.

11 Q Was one of them David Margolis?

12 A That's correct, David Margolis. And Roger
13 Adams was the other one.

14 Q And then you mentioned there was a second
15 procedure that you later learned would be used to
16 review these documents?

17 A Well, I said my first impression, but the
18 actual mechanics of the thing I learned wasn't going
19 to work that way, that they were going to review
20 them.

21 Q The Department of Justice?

22 A Right.

1 Q When did you learn that?
2 A Oh, in the phone call from Mr. Heymann.
3 Q Would this be the second phone call?
4 A I believe so.
5 Q What prompted that second phone call?
6 A Well, I guess on the first phone call, if I
7 remember correctly, probably he wanted to let me know
8 who he was, to tell me there would be someone coming
9 down, I guess. And I guess the second phone call is
10 to let me know who it was and how it would work.
11 That's the best I remember now, and that's why I had
12 sensed maybe he talked to someone. I sensed he had a
13 conversation with someone after he had the first call
14 with me.
15 Let me ask you, have you interviewed him?
16 He would certainly be able to clear this up better
17 than I could.
18 Q Not at this point.
19 A That's my best recollection of it.
20 Q Did he say anything about what the
21 procedures would be on that first call?
22 A I'm not sure I can sort out what was said,

1 which call. I can give you the best I remember from
2 the both phone calls, but that's the sense I have of
3 it, that the first phone call was not that in depth.
4 It was more, look, here's who I am, here's my
5 position.

6 Q Do you recall he called you both times, or
7 did you call him the second time?

8 A You know, I sense that he called me both
9 times. But my testimony previously may have said I
10 don't remember, and I don't. But I do remember two
11 conversations because I remember -- if you all have
12 my notes -- I wrote those two phone calls down. I
13 timed those phone calls. I do remember that. I
14 think I had Markland give me his notebook because
15 that was in my handwriting in his notebook.

16 MR. GIUFFRA: Let me show you a document
17 we'll mark as Park Police -- it's actually 118
18 through 129.

19 (Park Police Exhibits 118 through 129
20 identified.)

21 BY MR. GIUFFRA:

22 Q Does this appear to you to be the notebook?

1 A Right, it looks like pages out of the
2 notebook. And that's Markland's handwriting, and
3 this appears to be my handwriting.

4 Q Could you -- just for purposes of
5 identification, is the entire page your handwriting
6 or just the script at the bottom?

7 MR. KRAVITZ: What page are you on?

8 THE WITNESS: This is 119. Well, my
9 handwriting starts about one-third of the way down
10 the page with "Phil Heymann," and it's not spelled
11 right and I wrote it above him. And it looks like
12 his phone number "perhaps" and that was at 4:26 p.m.
13 I thought I had written -- yes, I did write two
14 times.

15 BY MR. GIUFFRA:

16 Q Criminal division, Justice Department?

17 A That's the names. He gave me those names
18 on the first phone call: Roger Adams, senior, and
19 David Margolis. And I do have 4:26 here. And I do
20 have -- I guess this is his phone number, the 2101,
21 and I have a command center. This is that guy, Larry
22 Leiser I was talking to there, a supervisor, somebody

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1 named Mark, and that was at 4:50. Now, I don't think
2 this is my writing right here, this 7A. Or here --

3 Q That was a notation that was made by the
4 Park Police?

5 A Okay, he called back. He called me.

6 Q About a half hour later?

7 A Definitely the second call he called me.
8 Whether I was given his number by the chief and told
9 to call him or whether he called me, my general sense
10 of it there, I think he called me. I've got here
11 "President's counsel's office seal off area" -- I
12 don't know if he was telling me those arrangements
13 would be made or had been made. I don't recall that.

14 MR. KRAVITZ: Can we state for the record
15 what page the witness is reading from?

16 MR. GIUFFRA: The witness is reading from
17 page 120.

18 BY MR. GIUFFRA:

19 Q What do these notes indicate to you?

20 A At 5:00 p.m., I got a phone call from
21 Mr. Heymann to call back. You know, that would
22 indicate he made the first call. Now, he's calling

1 me back again, and obviously he's now telling me what
2 is going to take place, I guess.

3 Q Does this indicate to you -- "President's
4 counsel's office," what does that indicate?

5 A Do you know if someone else put that there
6 or I did? I don't recall putting that there. I do
7 arrows and asterisks and things like that. A lot of
8 times I will do that, and that is not a habit -- it
9 wouldn't surprise me that I did it, but I don't
10 remember doing that. I don't know why I did that.

11 MR. KRAVITZ: The record should reflect
12 that the witness is pointing to an arrow
13 approximately two-thirds down the page which is
14 marked 120.

15 THE WITNESS: I guess the President's
16 counsel's office arrangement -- now, I know which
17 counsel's office? Maybe he explained that to me. I
18 guess -- at that point I'm not even sure I knew
19 Mr. Foster worked for Nussbaum. I don't know when I
20 learned that.

21 BY MR. GIUFFRA:

22 Q Does this "arrangement with counsel's

1 office" indicate to you that he had worked out
2 certain arrangements with the counsel's office?

3 A Either had or would be.

4 Q Do you recall whether he had worked it out?

5 A No.

6 Q What does the notation at the very bottom
7 of the page, near the bottom of the page, "seal off
8 area" indicate to you?

9 A That, in fact, it had been sealed off.
10 That's what I would think because we already learned
11 that anyway, that it had been posted or had been
12 sealed.

13 Q There's handwriting at the top of page
14 121. Is that yours?

15 A That's Markland's.

16 Q Now, you mentioned there was a second
17 procedure. You learned that there would be -- the
18 first procedure would not be the procedure that would
19 be used?

20 A No, no. My impression.

21 Q Your impression.

22 A Please. This is what I think. Again, it's

1 the first time I had been at the White House on an
2 investigation. My impression. That's what that was.

3 Q And what was the checked -- your impression
4 as to the second procedure?

5 MR. KRAVITZ: Bob, I don't think you
6 understand what he said. He said he had two
7 impressions based on what Phil Heymann told him. I
8 don't think he said he had an impression that there
9 were two different procedures.

10 THE WITNESS: Right. I didn't --

11 BY MR. GIUFFRA:

12 Q What was your final impression as to what
13 the procedure would be?

14 MR. KRAVITZ: At what point? Based on his
15 conversations with Heymann?

16 MR. GIUFFRA: Again, I'd like to say could
17 you please let me conduct the examination.

18 MR. KRAVITZ: I'm trying as best I can, but
19 you are asking completely improper questions that no
20 one could possibly understand. And we all have an
21 obligation to keep this record somewhat clear, and
22 there's no lawyer over there, and if you're going to

1 ask unclear questions --

2 THE WITNESS: I do feel that, I feel like
3 you're trying to trick me. I don't know why, and
4 maybe I'm a little more leery today because I've
5 given a deposition. I don't know. But I do sense
6 that.

7 BY MR. GIUFFRA:

8 Q I'm absolutely not. Just tell your story.
9 That's all we want.

10 A When I finished the conversation with
11 Mr. Heymann, the best I recall, we were going to
12 eventually get in the office. I still wasn't real
13 sure, I don't think at that time, when we would be
14 able to do what we had to do, but there would
15 certainly be a certain way that it would be done.
16 And that's what these two lawyers from the Justice
17 Department were there for, that they would look at
18 these things. And it appeared that -- I don't know
19 if it was right at that point, but I know we
20 finally -- I mean, it was very clear eventually we
21 wouldn't get to do it the way we would consider the
22 normal way to do business.

1 Q And why was that?

2 A I think it's obvious. We were at the White
3 House, and there was a lot of other things involved.
4 I mean, all these people are lawyers that we were
5 dealing with. Most cases we deal with, you have
6 someone -- especially many times in a death
7 investigation, whether it's a homicide or not, an
8 attorney doesn't get involved until you focus on the
9 suspect, and many times after an arrest. We had
10 attorneys from the get-go on this. We had attorneys
11 on all of this. The deceased was an attorney, as I
12 understand. The whole office was attorneys.

13 Q On the afternoon of the first day when
14 you're sitting in the Old Executive Office Building,
15 what was your impression of how you would be able to
16 look at the documents, if at all?

17 A There again, my first impression, the two
18 lawyers from the Justice Department look at them,
19 filter them or whatever, and if it was something that
20 could be allowed to let us see as police officers,
21 then we would see it. Then a little later on, it
22 appeared that wasn't going to happen at all, that the

1 Justice Department attorneys would look at it and
2 make a determination. But finally, it didn't happen
3 that way either. They didn't get to look at it
4 either, so --

5 Q Your second impression, was that based on a
6 conversation you had with Mr. Heymann?

7 A Look, let me say something about my
8 impression from being a police officer. I thought
9 things would be handled like any other normal case,
10 but this was not a normal case, as we all know. So
11 to tell you the truth, I'm not overly upset about my
12 first impression being thrown out the window.

13 Looking back on it, I'm not sure I'm upset
14 about my second impression or perhaps even the third
15 now, but at the time, yes, I was a little upset about
16 the way things were happening because I thought, and
17 I'm still thinking, what we have done year after year
18 after year in cases which we consider the normal
19 standard police procedures. Most of the time, in a
20 suicide especially, or even a homicide, the
21 relatives, parents and friends of the deceased are
22 very helpful, very helpful. They want to help. Most

1 people want to help the police. That's not unusual
2 for people wanting to help the police. We didn't
3 sense that here because, just the way things are
4 structured. We had the President who showed up over
5 at the house that night with two investigators over
6 there.

7 Q Let me try one more time. You sensed --
8 your testimony is that your impression changed. For
9 lack of a better word, we're talking about your
10 second impression as to what the procedure would be;
11 correct?

12 A Well, it developed, changed or whatever.

13 Q Why did it change?

14 A Because of what Mr. Heymann told me I got a
15 little bit better understanding.

16 Q Did he explain to you -- did he explain to
17 you why he would not be allowed to see the documents,
18 why just the Department of Justice attorneys would be
19 allowed to see the documents?

20 A No -- I don't remember.

21 Q Did you express any concern to Mr. Heymann
22 about the fact that the Park Police investigators

1 would not be allowed to look at the documents?

2 A No, I didn't.

3 Q Were you concerned about the fact that the
4 Park Police investigators would not be allowed to see
5 the documents?

6 A You know, I think at that point we probably
7 had gotten to the conclusion that this case was not
8 going to run normally, like a normal case that we
9 were used to, anyway, so in terms of being upset --
10 I'm still frustrated. This whole thing has been
11 frustrating, but what degree of -- I'm probably more
12 upset having to come up here today than I was then,
13 to be honest with you. I felt like I had some
14 control. And whether the Justice Department guys
15 were there or not, I still had a little bit more
16 control over things, you know, than trying to give
17 you the answers.

18 It's always like you're looking for a
19 certain answer and you want me to give you that
20 answer, and if I don't give that answer to you,
21 you're going to keep hounding me until I give you the
22 answer. And I'm not going to do that.

1 Q We want to get out all the information.

2 A You've made it more obvious than anyone
3 I've given a deposition or been interviewed by. And
4 you want me to give you a certain answer and I've not
5 experienced that before, even up here.

6 Q We'll try not to give you that sense.

7 (Pause.)

8 At about 5:00 or sometime thereabouts, did
9 you and Markland go back to the west wing?

10 A Yes, sir, that's correct.

11 Q Where did you go?

12 A There was a whole bunch of us. There was
13 the two gentlemen, Margolis and Adams, from Justice;
14 there's the two FBI agents, Condon, C-o-n-d-o-n,
15 Salter; Markland and myself. I think by now we've
16 gotten Mr. Imbordino with us, and I think that's
17 I-m-b-o-r-d-i-n-o. I'm not real sure. He was with
18 us, and I think a gentleman by the name of Dan Flynn
19 is also with us, also with the Secret Service. There
20 was quite a bunch of us.

21 We did, in fact, go back over to the west
22 wing. I went upstairs, and I'm going to tell you, I

1 don't know how we got there. I know physically how
2 we got there, but I don't know who initiated those
3 phone calls up there to get us up there. It wasn't
4 me. I'm pretty sure it wasn't me, and I'm pretty
5 sure it wasn't Markland. We did go back over there,
6 yes.

7 Q What happened?

8 A We go up, and I believe we took the
9 elevator up to the second floor, west wing. I've
10 since learned some things. I think Mrs. Clinton has
11 an office up there, and some of her aides. And of
12 course there's a suite of offices up there, I learned
13 later. You go in one door and there's a big main
14 office where the help works and the secretaries and
15 whatnot, and there was Mr. Foster's off of that and
16 Mr. Nussbaum's office in that suite of offices.

17 We all start in, Special Agent Condon and
18 myself are bringing up the rear of this group of
19 approximately -- I guess it was exactly eight people,
20 I guess. And as they all start in, it looks a little
21 crowded as they go through the door. And Condon
22 looks at me and I looked at him; we peeled out. We

1 stayed in the hallway. We didn't go in. There was
2 just too many people going in there, and that's what
3 I did. I waited in the hall for a period of time
4 until eventually Markland and those folks came out.

5 And they probably were in some conversation
6 because I tried to question Markland about something,
7 and he didn't have a clear understanding of what our
8 next move was. That's my recollection of that. He
9 wasn't really sure.

10 Q Was Markland interviewing Mr. Nussbaum at
11 that point? Do you know who --

12 A I don't know what they were doing at that
13 point. I learned later, I think there was a
14 conversation. I don't think there was an interview.
15 There was some conversation. Whether Markland was
16 involved in that conversation or a Justice Department
17 lawyer -- you'd have to ask those people that. I
18 know they went in. I know they came out. I tried to
19 get an understanding of what was accomplished in
20 there, and I wasn't clear on what was accomplished.

21 Q Markland was the lead investigator at this
22 point in the investigation?

1 A Right. He held the rank of detective. Up
2 to this point, we only had investigators working on
3 the case. Just to give you a little difference as
4 to -- at the time John Rolla and Cheryl Braun were
5 investigators. And the whole ream of investigations,
6 they would be junior in that sense, not junior police
7 officers, whereas a detective usually has more
8 experience, has been through different testing
9 processes and things like that. He's basically a
10 senior police officer.

11 Q Did you know where Mr. Foster's office --
12 did anyone point out Mr. Foster's office to you?

13 A I did learn that we kind of milled -- is
14 that the kind of right word -- just kind of milled
15 around -- that's not the word, but there was a
16 gentleman that I believe was a uniformed
17 Secret Service. He was in plainclothes, but I think
18 he's from the uniformed division. He might have even
19 said something like he was one of the guys that gave
20 tours at the White House. I just thought of that for
21 some reason. He was at the door, and I would call
22 that posted at the door, I guess.

1 Q Was the door open or closed?

2 A Best of my recollection, the door was
3 closed when he was there. And I remember seeing some
4 of the ladies in the outer office, and I had a brief
5 conversation with him.

6 Q Did you ask Detective Markland when you
7 were going to be able to get into the office?

8 MR. KRAVITZ: Do you mean after the meeting
9 with Nussbaum?

10 MR. GIUFFRA: At any point.

11 THE WITNESS: Oh, yeah, I'm sure. It
12 seemed like to me when they came out the first time,
13 I did have some questions, but Markland couldn't
14 answer them to my satisfaction, either because he
15 didn't know or I was interrupting him while he was
16 in -- there was something now that I was a little put
17 off, maybe because either we didn't get the answer or
18 I'd interrupted Pete and I shouldn't, perhaps. I
19 remember being slightly put off. I'm very frustrated
20 now. I may have been put off just a little bit. But
21 I remember --

22 BY MR. GIUFFRA:

1 Q Do you remember what the questions were?

2 A I think they went back in there like when
3 is this going to get done? When are we going to
4 finish what we're up here to do? That's the crux of
5 it. I don't remember specifically how the question
6 went, but that was the crux: When is this thing
7 going to take place? I seem to think we went back in
8 there and I remember after that, we went back under
9 that canopy.

10 Q Let me ask you, back in the office for a
11 second: Do you recall asking Pete when you would get
12 to interview witnesses at the White House?

13 A Not specifically. I may have. I know I
14 was certainly interested in when are we going to get
15 to do what we came here to do. I know that may be
16 part of it. I don't know if I broke it down into 1,
17 2, 3, each little part.

18 Q Let me show you your deposition from last
19 time. 47. I'll direct your attention to line 12.

20 A I broke it out here. That's the only
21 difference, but I don't -- you know, what's the
22 question?

1 Q Does this deposition refresh your
2 recollection?

3 A Right, that was an impression in my
4 opinion. I may not be 100 percent accurate on that.
5 Pete may have been in control, but I sensed that --
6 see, I'm basing this on, again, a normal
7 investigation that we would conduct of someone that
8 may not even have a high school education. We're up
9 against a Wall Street lawyer now, I've learned.
10 There's a big difference here. Let's be honest.

11 Q This is Mr. Nussbaum?

12 A I think he's a Wall Street lawyer. I think
13 I read somewhere he's a Wall Street lawyer.

14 Q There are too many Wall Street lawyers in
15 this.

16 MR. KRAVITZ: That's the first thing you've
17 said today I agree with.

18 THE WITNESS: And I think that's been a
19 theme I've been seeing here. There's a lot of
20 lawyers here. There's another layer we had to go
21 through in just about everything we did, and at the
22 time I saw that different than what we see it today.

1 I see that different today. I'm not upset as much,
2 probably, today as I was.

3 BY MR. GIUFFRA:

4 Q You were very upset then?

5 A I was probably upset -- you read that
6 deposition -- when I read it and finally put some
7 distance between reading it, there's some things I'd
8 liked not to have said. I think I used terminologies
9 of people I regret saying. I think I referred to a
10 lawyer as something I shouldn't have referred to a
11 lawyer as, and I regret that. I wish I hadn't have
12 said it. If I knew this thing was going by bosses
13 and people up at Interior, I wouldn't have said
14 that. I'm sure I wouldn't have said it. I was
15 frustrated when I gave the deposition, probably.

16 Q After you gave this last deposition, did
17 anyone at the Park Police question you about things
18 you said at your deposition?

19 A I wish you hadn't asked me that because
20 there was something the chief had said to me, and no
21 one has ever told me how to testify or how to answer
22 questions really, never. But I had a conversation

1 with the chief one time about a matter that -- like
2 today, my boss was called and told I had to be here.
3 My boss never told me where to come. I had to find
4 that out myself, and that's the way it was last
5 year.

6 So I called the chief's office, registered
7 a mild complaint that basically, people aren't
8 letting me know what's going on; we aren't
9 communicating. And I have a hard time being direct
10 with the chief sometimes, because he said what's your
11 point? I said well, you know, your major is not
12 communicating. He's not letting me know. I learned
13 after the fact that I could have had an attorney if I
14 wanted one when I gave a deposition; not that I
15 really wanted one, but I would have liked to have
16 known. That raises a flag that, if someone calls and
17 says do you have an attorney; why do I need an
18 attorney? And the chief said something about that.

19 Q Do you recall what it was you said?

20 A One of my terms. I recall a couple of
21 terms I shouldn't have used.

22 Q Do you recall what it was?

1 A Well, at first, I wasn't sure what he was
2 talking about. I said chief, what are you talking
3 about? He says a word and I referred to something as
4 a joke. I think that's what it was. You know, I
5 think it was more of a -- I don't know. I don't know
6 why he said it. Maybe it was a father-to-son sort of
7 thing. I don't need the chief to not use those
8 terms. I know I shouldn't have used those terms, and
9 I regret, upon looking back, it, and I apologize if I
10 offended anyone in using those words on the record
11 here.

12 Q Did you talk to the guard who was posted at
13 the door to Mr. Foster's office?

14 A Right. We had -- he wasn't real
15 comfortable talking to me, I don't think. That was
16 my impression. And he, I think, let me know that was
17 Foster's office. I'm not even sure that was Foster's
18 office. I knew -- no, I guess he's the one that let
19 me know that was Foster's office, as best I
20 remember. And I guess I was asking about -- I
21 remember something that he said: People could go in
22 and out if they want to, I guess, if they were

1 authorized.

2 I sensed that he was there more to observe
3 than to prevent anyone because I was under the
4 impression that if somebody wanted to go in there,
5 they would go in there. I don't think he had that
6 authority. I'm almost sure he wouldn't have had that
7 authority.

8 Q Do you recall him saying anything to you
9 that gave you that impression?

10 A I thought he told me someone had gone in
11 there, but I'm not sure. I learned stuff later. We
12 got a log and the log had the time. I remember 10:00
13 or 10:20 when the room was posted. Somebody went in
14 and got something out after he had been put there,
15 and maybe that's why I formed that opinion. If
16 someone wanted to go in there, big deal; they would
17 go in there. But I don't know if I formed that
18 opinion exactly when I was talking to him, whether
19 that was formed later on in the investigation or as
20 more facts leaked out or became public information --
21 or police information, for that matter.

22 Q So what happened after when Detective

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1 Markland and the other people came out of the office?

2 A The first time?

3 Q The final time.

4 A We went back, as I remember, under that
5 canopy, and I remember very clearly, I kind of stayed
6 back a little bit because David Margolis smoked, and
7 I have a terrible problem with allergies in the
8 summers and the smoking bothers me. And I may have
9 missed some critical information because of that, but
10 I don't think I did because I got the ride back, Pete
11 Markland and I rode back together to the office.

12 There was some stuff that one of the
13 fellows had asked Pete to bring back to the White
14 House, personal effects from Mr. Foster, so they
15 could take it over to Mrs. Foster that night.
16 Apparently the President or some of his officials
17 were going back over there.

18 Q Do you recall anything more about what the
19 procedure would be with regard to the search of
20 Mr. Foster's office?

21 A Well, I learned we would go back up the
22 next morning and interview some people, but at what

1 point I learned that -- I don't know if I was told
2 immediately. We did, in fact, go back up there the
3 next morning. But I still, to this day, don't
4 remember when I learned that it would be 1:15 or
5 whenever it was we were in that office because when
6 we get back up there the next morning, I still don't
7 know where Margolis and Adams are, and I guess
8 Markland told me they'll come later or maybe he knew
9 they would come later. It wasn't until, I guess that
10 afternoon when I first saw them. That's the best of
11 my recollection, and I don't know why I'm having some
12 problems with that particular sequence.

13 Maybe Markland had it and I was focused
14 somewhere else. Maybe he didn't know, either. To
15 this day, I don't think I've ever gone back and
16 discussed -- because I remember this was a contention
17 in the last deposition, and I've never gone back and
18 sat down with Pete and gone over everything. I don't
19 think either one of us love this thing that much that
20 we want to sit down and talk about it.

21 Q Was it your understanding or impression
22 that the Justice Department officials would look at

1 the documents in Foster's office the next day?

2 A Yes, best I can remember, I thought they
3 would look at it. And I guess that's why I said that
4 was even the third situation, and that's where they
5 didn't get to look at it.

6 Q Were you surprised about that when that
7 ultimately happened?

8 A I probably was. I'm not too surprised now,
9 I guess, but I guess I was back then, maybe.

10 Q Do you know why the change of plans?

11 A I'm sorry, change of plans?

12 Q Do you know why there was a change with
13 regard to how the documents would be reviewed?

14 A Oh, I don't know that there was a change.
15 I had impressions of these things. I may have had
16 the wrong impression. I may not have even
17 understood. I know at first I didn't understand
18 because I tried to repeat it back to Mr. Heymann or
19 to get further clarification, but no.

20 MR. KRAVITZ: Bob, can we take about a
21 two-minute break?

22 THE WITNESS: 10 minutes?

1 MR. KRAVITZ: I said two minutes. If you
2 want to take 10 minutes, that's fine, too.

3 (Recess.)

4 BY MR. GIUFFRA:

5 Q Captain Hume, just at the outset of this
6 segment, because you said something when we were
7 proceeding before, if at any time any question,
8 you're confused, you feel that the question is
9 tricking you, please let me know. The difficult part
10 in asking the questions is I get the sense that since
11 you've testified so many times before, that you're
12 concerned about inconsistencies that are just going
13 to be a reflection of your memory.

14 A Yes. I'm not concerned about the truth
15 because I've told the truth every time and I'll
16 continue to tell the truth, but recollections and
17 best you recall, I mean, you know, I'm not going to
18 recall it exactly. I think that the gist of it will
19 be the same, but each little -- two years almost,
20 now. I mean, one time in one of the other
21 interviews, people were writing up what I told them,
22 but this is a recording, and we have to be careful as

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1 police officers, I think. We learn that over the
2 years. You get on a grand jury and you testify, and
3 that's an attorney's job to impeach us and make us
4 look like we're lying or something. And I'm just
5 trying to do my job.

6 Q I'm not trying to trick you or impeach
7 you. The difficult part --

8 A Maybe I have a distrust of lawyers at this
9 point. I don't know. And I don't mean that for all
10 lawyers.

11 Q When you got back to the Park Police
12 headquarters after that first day at the White House,
13 did you have any discussion with Pete about how the
14 day had gone?

15 A When I got back to my office?

16 Q Yes.

17 A I tell you, we were pretty busy when we got
18 back there because we had to find personal property
19 on Mr. Foster and John Rolla had handled that and we
20 had a long day, pretty tiring day. And we may have
21 talked a little bit in the cruiser, may have even
22 talked a little bit back then. But I tell you

1 there's nothing of real substance like we had sat
2 down and analyzed everything we did that day and
3 here's what we need to do tomorrow. I don't think we
4 did that.

5 We could have, but it's not clear in my
6 mind because I can remember we used to get off --
7 Pete used to get off at 2:00, and I used to get off
8 at 3:00, and I don't think we -- didn't get out there
9 until 7:00 that night because we had to go back up to
10 the White House to take the property up there.
11 Obviously we had conversations.

12 Q Were you frustrated about how the day had
13 gone?

14 A I'm sure I still had a level of frustration
15 at that point.

16 Q Did you feel as if the White House
17 officials had been cooperative?

18 A You know, I've had a lot of time to reflect
19 on this and think about it, and some of my opinions
20 have changed. And since I wasn't really clear on
21 exactly everything that was going to take place --
22 it's like with -- Mr. Nussbaum had come down in the

1 west wing that morning, earlier that morning, and
2 basically the crux of that conversation was we need
3 to get into the office. And he said well, basically
4 you can get in, but when Justice Department people
5 get here.

6 I mean, it wasn't you're not going to get
7 in now; send me some real police up here, not the
8 Park Police. None of that was ever said. When they
9 got -- I guess the best way to answer, when they got
10 ready to cooperate, they cooperated. It was done on
11 a timetable that was, looking back on it, I guess
12 they felt they had reasons to do those things.

13 Q Let me ask you a question. Do you recall
14 saying at your last deposition that the investigation
15 was a joke?

16 A We just talked about that -- no, not the
17 investigation. I don't think I used the term
18 "investigation." I think I said that Pete Markland
19 and I, because of the procedures that we had to go
20 through that I was not used to and I don't think Pete
21 was, basically we used a term of something like -- I
22 don't know if Pete said it or I said it or it was

1 just a surmise like here we stand waiting to get
2 permission to do our job.

3 And it kind of became -- I used that term,
4 I joked between Pete and I kind of, like, that
5 morning, I guess, when Mr. Nussbaum said well, the
6 Justice Department when they get there -- and that's
7 when Pete and I decided to go get lunch. Or I was
8 going to call the FBI and we were going to go back
9 and get lunch. And I don't know who used the term
10 first or if it was only used one time. But somebody
11 said we're standing and waiting for permission to do
12 our job. It might have been Pete. I don't know.
13 And that's what I meant by the joke.

14 Q And Chief Langston --

15 A I don't think I ever called -- I don't know
16 if I referred to the investigation itself as a joke.

17 Q Did Chief Langston say anything to you
18 about the use of that term?

19 A Right. That's what I explained a few
20 minutes ago.

21 Q And it was his indication that you should
22 not have testified that way, used that word?

1 A I didn't get the gist that he wanted me to
2 testify a different way because --

3 Q Did he --

4 MR. KRAVITZ: Let him finish his answer.

5 THE WITNESS: I'm going to testify the way
6 I feel it should be, which is the truth. I mean, if
7 I had that feeling, that impression, and you're a
8 good enough interrogator to get it out of me, I'm
9 sure I'm going to say it. And I may regret it
10 later. The last time I said a few words, I regretted
11 it, but again, I think the chief might have given me
12 good advice because he knew people like you were
13 going to embarrass me with it or make me look bad
14 down the road by using that term. That's what I
15 viewed that as, as giving me some advice, not trying
16 to tell me how to testify. Like I said, I've had a
17 lot of time to reflect on this, and looking back on
18 it, I might not have used that word.

19 BY MR. GIUFFRA:

20 Q The next morning you went back to the White
21 House?

22 A Right.

1 Q And you conducted some interviews?

2 A That's correct; we did.

3 Q I just want to go through this very
4 quickly. Do you recall interviewing Betsy Pond?

5 A That's correct.

6 Q During the course of her interview, do you
7 recall Mr. Nussbaum entering the room?

8 A Yes, sir.

9 Q And just state for the record what you best
10 recall happening.

11 A We were sitting in the room. I think
12 Ms. Pond was at the end of a desk or a bench or
13 conference table, maybe something like this. FBI
14 agent was on one side; I was on the other side. We'd
15 be configured by the way we're sitting here, you and
16 I and Ms. Pond, like this lady here. And we're going
17 through our series of questions, and I'm asking most
18 of the questions, and the door burst open rather
19 suddenly and rather quickly. I guess it was somewhat
20 startling. And Mr. Nussbaum came in and said is
21 everything okay? It was a little disruptive. And
22 one or more of us, I guess someone assured him that

1 it was and he saw that it was, and he departed.

2 You know, I've learned that Mr. Nussbaum
3 has a very aggressive or strong type of personality,
4 and I think that was -- you and I might have just
5 opened the door. He kind of does everything with a
6 great deal of energy and vigor, just high-strung,
7 maybe. I don't know. Maybe a New York lawyer.

8 Q During the course of these interviews --
9 did you conduct a number of interviews?

10 A I myself only conducted one official, what
11 we call an official interview.

12 Q And that was Ms. Pond?

13 A Yes, sir.

14 Q Was anyone from the White House present
15 during the interview?

16 A Yes, sir.

17 Q Who was that?

18 A You know, when I was looking over some of
19 my notes to go into the grand jury, I think in my
20 report -- if you have my report, I can answer that
21 exactly because I'm sure what I put in my report is
22 the person I believe that was in that room, either by

1 him telling me or one of the other people telling
2 me. But I know there was some confusion, if you
3 remember from reading the deposition the last time.
4 For a long kind of time, I said I interviewed
5 Ms. Gorham. In fact, it was Ms. Pond.

6 My report says Clifford Sloan. I don't
7 know why I had the impression that it was
8 Mr. Neuwirth, and if I said that in my last
9 deposition, it was certainly a mistake. I had
10 trouble keeping Mr. Sloan, I think, and Mr. Neuwirth
11 separated.

12 MR. KRAVITZ: Captain, what page are you
13 reading from, for the record?

14 MR. GIUFFRA: It's Park Police 30 and 31.

15 THE WITNESS: Actually, on reflection of
16 having this gentleman in here, it's somewhat helpful
17 because he did give me some additional information.
18 He mentioned that Mr. Foster had gone down to the
19 Rose Garden that morning to attend a swearing in of
20 the new FBI director. I believe he's the one that
21 spoke up and told me that when we were just getting
22 ready to leave the room.

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1 BY MR. GIUFFRA:

2 Q Did there come a time in which you were
3 allowed access to Mr. Foster's office?

4 A That's correct; we were.

5 Q When was that?

6 A My recollection is about 1:15 on the 22nd,
7 which was right on the 22nd of July.

8 Q Just give us a narrative description of
9 what happened when you entered the room. During this
10 process by which --

11 A The best I recall, Mr. Nussbaum went behind
12 and took up a seat, and would have been normally
13 Mr. Foster's chair behind his desk. Situated around
14 him was Mr. Sloan, Mr. Neuwirth and a gentleman I
15 found out later to be Mr. Burton, and there was a
16 gentleman by the name of Mr. Spafford who was
17 representing the family.

18 And the opposing side or the other team
19 were the law enforcement team, the same eight who had
20 been trailing around there for some time. Myself,
21 Detective Markland, the two fellows from Justice
22 Department, two Secret Service fellows, and the two

1 FBI agents. There were eight of us, five of those;
2 there were 13 of us. Eight of those and five of
3 them. We outnumbered them by three.

4 MR. KRAVITZ: But they had the documents.

5 THE WITNESS: They had the documents;
6 that's correct.

7 BY MR. GIUFFRA:

8 Q Do you recall any conversations with the
9 Justice Department officials with regard to how the
10 document review would occur that day?

11 A No, sir, I don't remember any conversation
12 that day. Like I said, I don't even remember exactly
13 what point -- I seem to think it was after lunch that
14 the Justice Department people showed up. They could
15 have been in negotiating and meeting with
16 Mr. Nussbaum. I don't remember seeing them come in
17 that day.

18 Q Did they ever tell you about a change of
19 plans with regard to how the documents would be
20 reviewed?

21 A I don't know that I ever fully understood
22 the plan. I had impressions of the plan. No one

1 ever laid out -- I had formulated in my mind from a
2 conversation with Mr. Heymann that those documents
3 would be, as I've testified.

4 Q Would it be possible for you --

5 A But it didn't happen that way.

6 Q Would it be possible for you to draw out
7 where everyone was standing or sitting?

8 A Absolutely because I've done that for
9 somebody before, and I have that all nice and neat
10 and drawn up. That should be in somebody's files
11 I've given them unless I did it in the last --
12 somebody should have that.

13 MR. IVEY: My recollection is you didn't do
14 it with our deposition last year because we weren't
15 allowed to ask you questions like that. So you
16 probably did it for the FBI or Independent Counsel.

17 THE WITNESS: It could have been Fiske or
18 Starr's people.

19 BY MR. GIUFFRA:

20 Q I'm sorry. You have to do it again.

21 A You want Mr. Foster's office and where the
22 people were situated?

1 Q Where the office was --

2 A It was a pretty nice drawing I had. I
3 would have brought that. I think I even had one of
4 the identification people to help me with it. This
5 is not to scale. This is the wall here.

6 Q Do you recall if there was a bookcase along
7 that wall?

8 A Yes, and I don't know how -- well, there
9 were a couple bookcases. I'm not real sure, but
10 there was some stuff along there. Now, you can reach
11 that credenza -- let me start over.

12 MR. KRAVITZ: Are we going to get these
13 exhibits marked for purposes of the deposition?

14 THE WITNESS: Don't mark this one.

15 MR. KRAVITZ: The record should reflect
16 that the witness is making a second attempt at this,
17 and I think we're going to dispose of the first
18 attempt.

19 THE WITNESS: We're going to get rid of the
20 second one, too, because what I'm trying to do here
21 is get this thing fully visualized in my mind so I
22 can sketch it out right.

1 MR. GIUFFRA: Once the witness is finished
2 with that, we'll mark this exhibit as Hume
3 Exhibit 1.

4 MR. KRAVITZ: Maybe if we don't stand over
5 him.

6 THE WITNESS: This is just Foster's office.

7 MR. GIUFFRA: Let's mark this as Hume
8 Exhibit 1.

9 (Hume Exhibit 1 identified.)

10 THE WITNESS: The best I remember, this --

11 MR. KRAVITZ: Why don't you hold on. Wait
12 until she puts a sticker on it and then we can refer
13 to it as an exhibit.

14 THE WITNESS: This is not to scale. This
15 is Foster's office. It's so crowded in there that
16 when Bill Burton has to leave, I literally have to
17 get up and move my chair so he can get by. So it's
18 very tight in there. It's a small office for 13
19 people. Nussbaum is behind the desk, between the
20 wall and desk where Mr. Foster would normally have
21 sat, I assume. To his left, I believe, was Sloan.
22 To his right was Neuwirth. I believe Burton was

1 next, and best of my recollection, Spafford was the
2 next one. I seem to remember that he may have been
3 leaning on the credenza.

4 That credenza can be reached from the desk,
5 as I recall. Seated right in front of the desk, I
6 suppose somewhat slightly to the right of Nussbaum, I
7 guess to his right, Nussbaum's right would be
8 Margolis, and I seem to think Adams was off to the
9 left -- excuse me, the right of Margolis. I think he
10 may have been squatting. I'm not real sure. This is
11 probably another credenza or cabinet or something.
12 It might have been a computer sitting on a table.
13 I'm not sure.

14 Then there were some bookcases. On the
15 other side of the room, I remember an end table -- I
16 think there was a telephone on it -- a sofa, and then
17 they brought in some folding chairs for the rest of
18 us to sit in. I know I was seated right here,
19 somewhat in the vicinity of where Pete Markland was.
20 He was close to me and the FBI agent who was seated
21 on the sofa with Markland. I believe they both sat
22 on the sofa.

1 Imbordino, Flynn and Condon, I don't know.
2 We all four were back here. This is a wall here.
3 You come in. You've got a little -- just the way
4 that thing is shaped, that wall. This might be the
5 hallway, part of that elevator system or something in
6 the hall.

7 Q Do you recall if there was a cabinet as you
8 walked into the room?

9 A Might have been something in here, but I
10 don't remember.

11 Q Do you recall if there was a coffee table
12 in the room?

13 A I think this was a coffee table that I'm
14 indicating here to the right of the sofa if you're
15 seated on the sofa.

16 Q Was it a large coffee table or small coffee
17 table?

18 A It was small compared to this conference
19 table. I mean --

20 Q It was a normal sized coffee table --

21 MR. KRAVITZ: Why don't you ask him how big
22 it was?

1 THE WITNESS: It was probably 24 inches by
2 24 inches -- 2 feet by 2 feet. It held the
3 telephone. May have been a lamp on it. It would be
4 something that you would find in my home. It would
5 be normal in respect to what I have in my home. I
6 think of it more as an end table than a coffee table.

7 BY MR. GIUFFRA:

8 Q Do you recall any sort of table in front of
9 the sofa?

10 A Could have been. I don't remember. I know
11 things were crowded and I know from this drawing that
12 we were closer to Margolis and Nussbaum. We were
13 much closer.

14 Q Were Margolis and Adams very close to the
15 desk or further --

16 A They were only separated by the desk. They
17 were just like you and I. They could be eyeball to
18 eyeball just like you and I are right now. There was
19 no problem with them hearing and seeing, but the desk
20 may have been a little wider than this.

21 Q How many feet were they from Mr. Nussbaum?

22 A I'll guess 6 to 8 feet. They were a little

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1 further apart than you and I are. I don't know if it
2 was more like that gentleman seated over there, which
3 might be closer to 10 feet.

4 Q You walked into the room, everyone
5 positioned themselves, and what happened next? Did
6 Mr. Nussbaum say something?

7 A Eventually, the first thing I remember him
8 doing was removing some papers. As I recall, there
9 were only just, I only remember like one pile of
10 papers, as the lady said in one of the interviews
11 that we did with her -- it was myself and Markland --
12 she squished the papers; she had gone in the office
13 and squished the papers together.

14 It looked like to me that -- I don't know
15 Mr. Foster's habits, but it was obvious that he
16 didn't leave his desk in disarray like we have papers
17 laying around. It was nothing like that when we
18 first went into the office, and one of the ladies had
19 said she had gone in and squished the papers
20 together. Maybe she shouldn't have done it, as best
21 I recall.

22 I remember Nussbaum removing various

1 papers. I think he took something out of the
2 credenza, I believe, or took something out of the
3 desk drawer. I know there were papers eventually put
4 up on there. One time he reached to get papers, and
5 I couldn't see where he was getting them and kind of
6 indicated something to Markland, and Markland
7 indicated to me rest easy or that's okay; don't worry
8 Charlie; I can see where he's getting them from, and
9 I guess I may have looked over.

10 As best I recall, you could see there was
11 an opening under the desk, and I could see -- he was
12 reaching down in -- I called it a valise or briefcase
13 or leather, it turned out to be a leather tote bag
14 that you carry back and forth from the office to
15 home -- but he pulled some papers out of that and put
16 them on the desk.

17 Q Did Mr. Nussbaum say anything about how the
18 review would be conducted?

19 A He and Mr. Margolis had a conversation.
20 They talked a lot about privilege, a lot of legalese,
21 a lot of lawyer talk about privileges and things like
22 that. And I think I probably said earlier from a

1 layman, from my point of view, it got a little
2 absurd, I guess. There was one article that had been
3 printed in the newspaper and it was some kind of
4 privilege. I hand it to Nussbaum; he was good. If
5 he was legal in everything he did, he was definitely
6 a good attorney.

7 Q Again, did he say well, I'm going to
8 place -- here's how I'm going to conduct the review?
9 Did he say anything like that at the beginning of the
10 review?

11 A He may have. What's more clear is actually
12 what happened.

13 Q What happened?

14 A The papers were up and he'd pick them up,
15 and he would pick the papers up pretty much like I'm
16 picking these up.

17 Q Hold them in front of himself?

18 A Remember, except for Nussbaum's people, no
19 one is behind him. All the law enforcement types are
20 out on the other side of the desk, and he'd pick them
21 up. I don't think he did like this like saying ah,
22 don't peek. That comes later. One of the guys

1 thought some guy was peeking. Anyway, he would look
2 at it and made some comment. I personally don't
3 sense that he individually -- he might have had a few
4 papers and this is this and this is this and that's
5 that. Police may be interested in that.

6 As I remember, Margolis would look at
7 Markland, and they'd kind of agree and put them over
8 in this pile, something along those lines. This is
9 Foster's personal stuff, so he'd put that in another
10 pile.

11 Q Did he show the documents to Margolis?

12 A Not from -- no. You could see printed
13 newspaper. You could tell it was a copy of something
14 from a newspaper because I remember reflecting or
15 thinking in my own mind that looks like maybe an
16 editorial, like in The Washington Post they have the
17 little three or four running down the editorial
18 page. It looked like one of those that had been
19 copied on a Xerox machine. That's what it looked
20 like to me. I think there was some light and the
21 paper didn't appear to be that thick.

22 And I remember they had a discussion about

1 policy or some legal doctrine such as some type of
2 privilege. I'm not sure if it was an executive
3 privilege or privacy privilege or whatever. And
4 Margolis -- I thought it was kind of ridiculous. I'm
5 looking at it strictly -- I can read it in the
6 newspaper sort of thing, or had the opportunity to.
7 And Margolis seemed to understand it because they had
8 to treat those documents the same way at the Justice
9 Department.

10 And my best recollection was a third pile,
11 and that third pile may have been dealing with some
12 White House matters. So we have a personal pile,
13 strictly White House pile and something the police
14 might be interested in. But the bottom line of this
15 whole thing is that the police never made a
16 determination what might be relevant to the
17 investigation and what wasn't at that point.

18 Eventually we did get to look at some of
19 those documents. Eventually we did get to look at
20 some of his personal stuff. I had two people go over
21 Mr. Foster's attorney's office, which they allowed
22 the personal papers to go with that attorney. And

1 they were reviewed, and we did get to go up and see
2 Mr. Sloan and go through some of the things that the
3 police may have an interest in. I was allowed to
4 copy some of those things. Of course, all that
5 occurred later down the road.

6 Q Would you have wanted to make those
7 determinations yourself?

8 A Absolutely.

9 Q Why was that?

10 A Because as I testified earlier, we, as the
11 investigators, had the most knowledge of the case.
12 We knew what might be relevant and what weren't
13 relevant, and we were the ones that had to pile
14 everything together.

15 Q Do you recall which files Nussbaum reviewed
16 first?

17 A You mean which papers he went to first?

18 Q Did he review the papers on top of the
19 desk, inside the desk?

20 A No. I seem to think he got something from
21 the credenza or off of the credenza for some reason.
22 I know there was some papers on that desk. It was

1 like off -- fairly nice pile.

2 Q So the papers on the desk were neatly
3 arranged?

4 A I would say yes.

5 Q Do you recall how high the pile was on his
6 desk, Foster's desk?

7 A It wasn't as thick as this book here, which
8 is probably 2 inches. It wasn't that thick -- well,
9 I don't know. I don't seem to think it was that
10 many. But you know, a couple of papers could have
11 been rumbled up or something and made it look like
12 more. If I would have gone in and seen one paper or
13 no paper on the desk, I would have thought that was
14 unusual. Or if I had gone in and the thing was
15 totally disheveled and papers were everywhere, I
16 would have thought that unusual.

17 But the only thing I thought was unusual
18 and this may have been how I leave my desk, it didn't
19 appear to me -- that doesn't mean anything either
20 because I know a guy at work that leaves his desk
21 like that. It never looks like that's not relevant
22 from a police investigation in retrospect now. Maybe

1 at the time I thought it looked unusual.

2 Q Why was that again, because it was too
3 neat?

4 A Because there were papers just in one
5 place. It didn't look like a normal desk that a
6 person would work at from day to day. But a guy at
7 work leaves his desk like he's never been at it. In
8 other words, after thinking about it, my impression,
9 I think, has changed from the time I was, when I was
10 there.

11 Q What was your impression at the time?

12 A That somebody had already been in there,
13 that someone had gone through the papers and the lady
14 said she squished it up. She said she had gone out
15 and out of habit or something -- I think she used
16 that term, squished the papers together.

17 Q If it had been someone who maintained a
18 sloppy desk and when the police went back to their
19 office after they had been found dead and the desk
20 was now neat, might that be something that would be
21 relevant to your investigation?

22 A You can't take one thing -- ever take one

1 thing and say it is or isn't relevant. You've got to
2 tie everything in together. The guy committed
3 suicide. Maybe he cleaned his desk up before he went
4 to commit suicide. That's part of getting your
5 affairs in order, not leaving unfinished business,
6 getting all the documents routed to where they're
7 supposed to be routed.

8 The thing came up have we determined
9 whether Mr. Foster is left-handed or right-handed.
10 Some of that could be relevant, maybe not. I'm
11 left-handed, shoot a rifle right-handed. What does
12 that mean? It may or may not mean anything. You've
13 got to look at it in the totality. We watch Perry
14 Mason and watch detective shows on TV, but it's
15 wrong. All that stuff is usually wrong.

16 Q Could the condition of the papers on
17 Mr. Foster's desk, whether they were neat or in a
18 sloppy condition, could that have been relevant to
19 your investigation?

20 A I don't know. People already admitted they
21 had been in there. People admitted they went in the
22 night before. I think Pete Markland knew they had

1 gone in there. As a matter of fact, he was told they
2 had been in there the night before so none of it at
3 that point -- I probably would say it probably wasn't
4 relevant. The woman admitted squishing the papers.
5 None of it was relevant at that point.

6 The only thing we could accomplish at that
7 point if it would be relevant if we could go through
8 the stuff and see if we found something. For
9 example, that briefcase. We would guess that he took
10 that home -- not -- assume, not a guess. We'd have
11 to, from a police perspective, say that's something
12 people do. They do take briefcases back and forth,
13 and we'd probably -- perhaps -- I don't want to say
14 probably, could find something in there that might be
15 relevant to the investigation.

16 Q So is it fair to say that your testimony
17 would be that because people had entered the office,
18 the positioning of the papers on Mr. Foster's desk
19 was not a relevant piece of evidence for your
20 investigation?

21 A No. I said I think we hadn't considered it
22 as relevant anymore because people had gone in. And

1 I also said you have to take all those things in
2 context and put it together with everything else you
3 have.

4 Q And you would have preferred that the
5 office --

6 A I already told you what we would have
7 preferred. We would have preferred if we could have
8 gotten someone over there that night. That would
9 have been the ideal situation.

10 Q Someone look in the office when you left or
11 as close to the time --

12 A Right, as soon as possible after you find a
13 body. You start your investigation. Time is always
14 critical in an investigation.

15 Q Do you recall Mr. Nussbaum looking in these
16 credenzas that you've drawn on the sketch?

17 A I remember something about some books over
18 here on the -- binders I'm talking about, notebooks,
19 big binders he mentioned was the health care that
20 Mr. Foster was working on with Mrs. Clinton. I
21 remember that, but I don't know if he got up and
22 walked around. I don't remember if he got up and

1 walked around or if he just indicated, motioned. He
 2 may have gotten up and actually physically gone over
 3 like he touched many things when he was at the desk.
 4 For some reason -- I do remember there was health
 5 care because there were quite a few volumes, binders
 6 of them, and I do remember the health care.

7 Q Do you recall any other binders in the
 8 bookcase?

9 A There may have been. I don't remember
 10 anything specific that jumps out like that. Maybe --
 11 I vaguely have a recollection about something, but it
 12 was kind of fluffed off or went over real quick, and
 13 I thought -- and as I've said many times, I didn't
 14 know anything about Whitewater before this, and
 15 that's a term that we learned later, but I thought he
 16 said something about a development, something he was
 17 working on, something he was looking at, but I'm not
 18 100 percent clear on that. But that was there. That
 19 was something. He didn't say well, there's something
 20 here that's not here anymore.

21 I vaguely remember this reference in that
 22 office at that time. But it would have been

1 anything. It could have been similar health care,
 2 health insurance, but I thought he said development.
 3 But he could have said something they were trying to
 4 develop a program or something. And let me tell you,
 5 I would have never thought of that, but people have
 6 constantly tried to pull those things out of me over
 7 and over; did you hear anything about this or that.

8 And that's the only reason I was able to
 9 vaguely remember a little something about -- maybe
 10 they could have said they were developing a new
 11 system or a new whatever. But that's the closest
 12 thing I could recollect that came close to anything
 13 that would have any contact or nexus at all to
 14 Whitewater or something. But like I said, I didn't
 15 hear the word Whitewater used, and I wasn't familiar
 16 with the term.

17 Q When Mr. Nussbaum would review the
 18 documents, would he say what the subject matter of
 19 the document was?

20 A On some of them, yes, he would. I don't
 21 think he did all of them. He might have grouped them
 22 and said all of this has to do with -- but I don't

1 recall each and every one.

2 Q Do you recall him indicating whether any of
3 the documents had anything to do with the President
4 and First Lady's personal finances?

5 A I mean, it could have been. I don't
6 remember that. It very well could have been. You
7 know, when you ask these questions and I go back and
8 I think of what I've read in the newspaper, what FBI
9 agents have asked me, what Justice Department have
10 asked me and -- you don't realize how hard this is.

11 Q Oh, I know. It's hard for me also to the
12 extent you said before: It's hard because I'm sort
13 of the last person after you've been interviewed by
14 all these people --

15 A So I don't --

16 Q Do you recall anything about financial
17 disclosure statements?

18 A That's not to say it wasn't mentioned.
19 There's 13 people in there now and maybe a couple of
20 these other fellows might remember.

21 Q Do you recall anything about tax returns?

22 A Man, this is hard because I can remember a

1 lot of people asking me these things and that sounds
2 familiar, but I don't believe that was mentioned in
3 that room. But it's familiar because I've heard it
4 so many times since.

5 You know, the things that I remember very
6 clear in there was the discussion between Nussbaum
7 and Margolis about privilege. I guess that was said
8 in the stage do you remember any other
9 conversation -- I think there was a discussion before
10 Nussbaum did anything. I think he and Margolis had a
11 discussion on privileges and game plan. It might
12 have been at that point they did it for the benefit
13 of the rest of us or maybe that's when the game plan
14 was laid out, right there and then in that room. It
15 could have been formulated right there and then for
16 the first time between Margolis and Nussbaum or at
17 least that may have been the first time Margolis --
18 surely you all have interviewed Margolis; right? He
19 could certainly clear all this up.

20 Q Do you recall if there were folders on
21 Mr. Foster's desk, or was it just loose papers?

22 A It could have been a folder in that stack.

1 I don't know. But I just remember a stack of papers
 2 facing the desk but on the right side of the desk.
 3 And it seemed like to me everything else -- it wasn't
 4 in the normal -- I don't remember a hole punch or
 5 paper clip holder or stapler. I don't remember a
 6 whole lot else on that desk, to tell you the truth.

7 Q Were there any personal photos on the desk?

8 A I remember a personal photo. I don't know
 9 if it was on the desk or somewhere else, but I do
 10 remember reference to a personal photo, personal
 11 meaning something that, not necessarily his picture,
 12 but something that means something to him.

13 Q But your impression, as you sit here today,
 14 is that the desk was relatively clear of items other
 15 than these papers on the right-hand side?

16 A There could have been a lamp. I don't
 17 remember. I just don't remember a cluttered desk. I
 18 can clearly say the desk was not a cluttered desk.
 19 It was relatively clean. There were not papers
 20 strewn all around. There were a stack of papers
 21 facing me; it would be to my right. There could have
 22 been an "in" basket there, too, but again, I see so

1 many desks with "in" baskets. If we would have
 2 processed that room, we would have taken pictures of
 3 it. Sometimes when we process places we take
 4 photographs. That's a possibility.

5 Q Do you recall if you had to open up any
 6 cabinets with a key in order to pull the papers out?

7 A I don't remember him using a key unless the
 8 key was already in the lock and he turned it and
 9 pulled it, but I don't remember him getting a key and
 10 inserting it. Most definitely not. I can almost say
 11 no, that did not happen.

12 Q After Mr. Nussbaum was finished going
 13 through the documents, do you recall approximately
 14 how high the stacks were, how tall they were?

15 A Police stack looked smallest of all, but I
 16 don't know, maybe it wasn't.

17 Q Do you have a rough idea?

18 A No, because I think the ones that were --

19 Q Do you remember it being a foot high?

20 A I don't remember anything being a foot
 21 high. I don't remember anything higher than anything
 22 we have on this table.

1 Q Would you say 6 inches high?
2 A 6, 8 inches maybe, whatever that is.
3 Q It's your best recollection that none of
4 the piles were more than 6 or 8 inches high?
5 A Probably not; that I remember, no.
6 Q Do you recall which pile was the tallest?
7 A No.
8 Q Do you recall how tall the personal file
9 was?
10 A No.
11 Q During the course of the review,
12 Mr. Nussbaum was consulting with -- was he consulting
13 with anyone?
14 A You know, I tend to think he may have let
15 Mr. Sloan or Mr. Neuwirth look at something.
16 Q Holding the documents up --
17 A I don't know if he actually said Cliff,
18 what do you think about that. He may have.
19 Q You don't remember?
20 A No.
21 Q You mentioned at one point -- let me strike
22 that.

1 At any point, did any FBI agents try to
2 stand up in the office?
3 A Right. A fellow by the name of Scott
4 Salter that was taking up a seat beside Pete Markland
5 on the sofa had stood up, and I believe it was -- I
6 get those two fellows mixed up again. I think it was
7 Sloan. The one that was on the right facing, which I
8 indicate here was Sloan, and I really do believe that
9 was Sloan.
10 Q What did Mr. Sloan say?
11 A Something to the effect I sure hope or I
12 hope you're not standing up to try to get a look.
13 That was the crux of it, look at the documents or
14 papers or something. The agent took a little
15 exception to that.
16 Q Do you recall what he said?
17 A Not exactly, but, hey, ho, wait a minute
18 fellow, something to that effect. This thing got a
19 little bit tense here and Nussbaum, of course, trying
20 to diffuse it.
21 Q Do you recall what he said?
22 A Everyone kind of stopped and hesitated,

1 waiting for the next move, but it was nothing like
2 hey, Cliff, take it easy or let's stop that, it was
3 nothing like that. Everyone got real still and it
4 kind of blew over and went on back, and I can
5 remember he was looking around. I guess he looked at
6 Cliff and so forth, but I don't remember exactly what
7 he said.

8 Q Do you recall anything about any trash that
9 was in the office, review of any trash?

10 A I remember some conversation, and
11 apparently they have something called burn bags, and
12 either at that point or some point he may have gone
13 out and gotten it -- I suppose when that was brought
14 back, if I remember correctly.

15 Q So it's your best --

16 A Back into the office.

17 Q The trash was brought back into the office?

18 A The best I recall, it was done while we
19 were there or done before we got there. But there
20 was discussion and a bag was brought back.

21 Q Do you recall that the bag that was brought
22 back was a clear bag or brown bag?

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1 A I don't remember.

2 Q Did Mr. Nussbaum review the contents of the
3 trash bag?

4 A No, I don't remember. My sense is he
5 didn't, but I don't remember.

6 Q Do you recall whether there were trash
7 baskets in Mr. Foster's office?

8 A No. The only thing I remember -- when you
9 talk about trash or something, I can remember I was
10 kind of curious. There was a little piece of paper
11 on that table, like one of these stickums, on what we
12 call the end table or coffee table.

13 Q This was the one next to the sofa?

14 A Right. There was a piece of paper on there
15 that was probably no bigger than a couple inches by a
16 couple inches, and I was trying to peek over and
17 look. I was squared to stand up at this point, but
18 when we all got up to leave, I can remember trying
19 hard to see if there was a phone number. It may have
20 indicated the last person he called or something like
21 that.

22 Q Did you ever look at that piece of paper?

1 A No.

2 Q Why didn't you look at it?

3 A I wasn't allowed to touch any papers in the
4 office.

5 Q Did someone tell you you couldn't look at
6 any papers in the office?

7 A Come on. It was pretty obvious at this
8 point I wasn't calling the shots. That was Margolis
9 and Nussbaum doing all that. But at that point, no,
10 no one specifically told me I couldn't look at it.
11 But a man stands up and someone accuses him of trying
12 to peek at paper, we're not stupid.

13 Q Would you have looked at that little note?

14 A I would have liked to have looked at a lot
15 of things in the office.

16 Q What would you have liked to look at?

17 A His personal papers, personal briefcase to
18 see if there was something in there that would
19 indicate why a man would kill himself or that might
20 take the course of investigation somewhere else. But
21 at that point, even though we hadn't officially
22 closed it as a suicide, we were strongly leaning

1 towards a suicide. We certainly felt strongly that's
2 what the course of events was going to come out.

3 But it's just like when we make an arrest
4 for rape: We'd love to go to the suspect's house and
5 find the woman's clothing or driver's license to
6 buttress her identification of him. We want that
7 more than anything to make sure hey, we've got the
8 right person. And the same thing with the suicide.
9 We'd like to find a suicide note. We'd like to find
10 a history of depression, a history of indebtedness,
11 maybe, something that the general public, average
12 person accepts that a person would kill themselves
13 for.

14 We're looking to those same things as
15 police officers. A person has had a long history --
16 sometimes we find that people have attempted suicide
17 two or three times before they finally kill
18 themselves. That's not unheard of, and if we find
19 those things, it sure makes us feel better as
20 investigators.

21 Q You said it's possible that the
22 investigation might have gone in a different

1 direction. What did you mean by that?

2 A No, I didn't say this particular one. I
3 just used that generally. I didn't mean to say --
4 well, you never know. You never know what you might
5 find. We could have found a letter in his briefcase
6 that he had gotten from someone threatening him,
7 maybe. You don't know until you examine the evidence
8 that -- or the materials you're looking for. It
9 might be evidence. I don't want to call it all
10 evidence because obviously it isn't, but you don't
11 know until you look at it.

12 Q You would have liked to have had the
13 opportunity to make the decisions as to what
14 documents you'd want to look at more closely?

15 A Certainly. I've already said that.

16 Q With regard to the briefcase, where was the
17 briefcase located in Mr. Foster's office?

18 A Facing the desk, it would be to the left
19 rear of it. If I'm sitting at the desk as
20 Mr. Nussbaum did, it would have been right down to
21 his right, the right side, not the end but the side.
22 It would be him talking here, on the same side that

1 Mr. Nussbaum was. It would have been to his right.

2 Q It was not on the side of the desk?

3 A Right.

4 Q On the narrow side of the desk?

5 A That's correct.

6 Q It was on the long side of the desk?

7 A That's correct.

8 Q But behind the desk?

9 A Right. The desk, I would assume, had two
10 sets of drawers. The desk is open in the middle.
11 There's drawers on both sides or maybe drawers on one
12 side and a typewriter stand or something, whatever.
13 Over here on Nussbaum's right was sitting a
14 briefcase. That's why I couldn't tell where he was
15 getting the papers from.

16 Q You couldn't see the briefcase from where
17 you were sitting?

18 A Not until Markland said I can see and I
19 realized what he meant; and I leaned over maybe a
20 little bit, and I could see a case sitting there, but
21 I saw it when he picked it up and moved it back.

22 Q Do you remember what color the briefcase

1 was?

2 A I want to say brown, some shade or color of
3 brown.

4 Q In your own words, just describe the search
5 of the briefcase, what Mr. Nussbaum said, what you
6 observed.

7 A The first time he reached down, he pulled
8 up a pretty sizable stack of papers, put them up on
9 the desk, and I guess he went through those.

10 Q Do you recall how sizable the stack was?

11 A It was a handful. It was more than this.
12 It was a couple of inches of papers like this, I
13 guess, it seemed like, as best I recall.

14 Q Were they loose papers or were they in file
15 folders?

16 A My best recollection that I can help you
17 with on that is they were probably loose. I'm not
18 saying it couldn't have been one file folder, but I
19 tend to think they were loose papers.

20 Q Do you recall the color of the papers?

21 A What we're looking at here, combination,
22 maybe yellow, maybe some of them were white. I don't

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1 know. Maybe all of them were white. There's nothing
2 significant or unusual that stands out in my mind.

3 Q What did Mr. Nussbaum say he was going
4 through the briefcase? Did he say anything?

5 A Look at it, this is this, this is that, and
6 put it in whatever pile and -- he picked it up again.

7 Q Was he removing the papers one at a time or
8 just in a big clump?

9 A No, a handful, put them on the desk and
10 went through them.

11 Q Was it more than one clump?

12 A No, they all came out on one hand, put them
13 on the desk, as best I recall. Went through those, I
14 guess, and he picked the briefcase up. And he's
15 talking; he doesn't do anything with it. He reached
16 down, picked it up -- which indicated to me he looked
17 at it -- so that would be the second time he did
18 anything with the briefcase, and I think he set it
19 back down. I don't think he put it back against the
20 wall at that point.

21 I think he finished his conversation,
22 whatever he was talking about, and then he picked it

1 up and put it back against -- I'm pretty sure there's
2 a window back there, and set it back against the wall
3 where the window was. I know the wall was because he
4 put the briefcase against the wall. And I think
5 there was a window as I draw in the thing here.

6 Q Did the briefcase open at the top?

7 A Right. It would be the kind you take the
8 handles and pull it out.

9 Q Do you recall if it had one or two handles?

10 A It had two, as best I recall, because you
11 pull it open like that.

12 Q And the briefcase was next to
13 Mr. Nussbaum. About how far -- when it was on the
14 floor, about how far did it seem his eyes were from
15 the top of the briefcase? Was he bending over? Was
16 he sitting back?

17 MR. KRAVITZ: At what point?

18 MR. GIUFFRA: The very beginning.

19 THE WITNESS: At the very beginning? I
20 tend to think he leaned over towards it because when
21 he got the papers, where did he get the papers, did
22 they come out of the bottom drawer of the desk? Did

1 he get them out of the credenza or cabinet or
2 whatever, some piece of office furniture. And the
3 second time, when I remember --

4 BY MR. GIUFFRA:

5 Q The first time he pulled the papers out of
6 the briefcase, did he say anything?

7 A I don't remember anything. I mean, he was
8 saying something on and off most all the time, but I
9 don't remember him saying okay, now I'm going to lean
10 down; I'm going to get the papers out of the
11 briefcase. No, he did not say that. There was
12 nothing to connect that. If he would have said that,
13 I would have known where he had gotten them from.
14 No, in that respects -- I mean, in that regard.

15 Q Did he ever indicate to you that he
16 believed the briefcase was empty?

17 A Did he ever say anything?

18 Q Yes.

19 A No. The only thing that indicated to me
20 that it was empty was when he picked it up he looked
21 in it -- he's talking, it's like he's distracted,
22 which he may have been, I don't know -- and either

1 set it back down and picked it up and set it against
2 the wall. When he set it back against the wall, that
3 to me was an indication that it was empty.

4 Q But you have no recollection of him saying
5 that the briefcase is empty?

6 A No.

7 Q Or I think the briefcase is empty?

8 A Not just recollection. I really don't

9 believe because that briefcase has become such a

10 focal point. It became critical later on in the

11 investigation because of the note that was found in

12 it, that I really don't believe he said it. I think

13 I would recall that because that would have been at a

14 time -- we're talking less than a week after when we

15 find out about the note in the briefcase, and I think

16 that would have been something that would have been

17 put in our report, and I would have remembered that.

18 Q Based on your observations, do you believe

19 if there had been anything in the briefcase that

20 Mr. Nussbaum would have seen it?

21 MR. KRAVITZ: Did you understand that

22 question?

1 THE WITNESS: Yes, and I'm just trying to

2 reflect. It's a classic question I get asked quite

3 often. And somebody even wanted me to call him a

4 liar, and I'm not going to call him a liar. I'll

5 answer that with a statement. I think if the police

6 was searching that, they would have found it, yes.

7 If I was searching that briefcase, I would have found

8 that note.

9 The way Mr. Nussbaum did it, I'd like to

10 think he would have found it, but the more and more I

11 think about it and try to give him due credit, I

12 don't know. I can't sit here and tell you how I've

13 answered it all the other dozen or so times I've

14 answered the question. One person said do you think

15 he was lying when he said he didn't see it, and I

16 said look, I'm not going to -- I'm just saying that I

17 think if the police had done that, we would have

18 found it.

19 MR. KRAVITZ: Can we go off the record for

20 one minute?

21 MR. GIUFFRA: Sure.

22 (Discussion off the record.)

1 (Whereupon, at 1:00 p.m., the deposition
2 was recessed, to be reconvened at 1:45 p.m. this same
3 day.)
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1 AFTERNOON SESSION (1:50 p.m.)
2

3 Whereupon,
4

5 CHARLES W. HUME

6 resumed the stand and, having been previously duly
7 sworn, was examined and testified further as follows:

8 EXAMINATION (Continued)

9 BY MR. GIUFFRA:

10 Q Captain Hume, I'd like to show you a
11 document that's been marked as FBI -- we'll mark it
12 as FBI 42. This is a document we received from the
13 FBI. It's a form 302. Now, I guess you've testified
14 that you've been interviewed on any number of
15 occasions about these events that we've been talking
16 about here today?

17 A That's correct.

18 Q If you could just read that 302 interview.
19 (Witness reviewed document.)

20 A Okay.

21 Q Now, on the bottom right-hand corner, it
22 indicates --

A I think the date might be wrong.

Q The date, it looks like 8/2/93 as the

1 investigation on -- and up at the top date of
2 transcription, it says 8/5/93. Do you recall
3 speaking to somebody from the FBI at about that time?

4 A You know, I was interviewed by somebody
5 from the General Accounting Office. I was
6 interviewed by somebody from the office of
7 professional responsibility. Now, I don't
8 remember -- this person has identified himself to me
9 as an FBI agent, was advised to interview an agent.
10 On August the 5th, '93, that's the date that we
11 closed that case. August the 2nd -- I doubt very
12 seriously I was interviewed August the 2nd.

13 Q Captain Hume, the document you just pulled
14 out of your coat pocket, what's that?

15 A That's my notes that I typed up. It's a
16 time line.

17 Q When did you type those notes up?

18 A Well, I don't know when I typed one page
19 up, but I typed this up this week.

20 Q Could I take a look at that?

21 A Sure, everybody here at the table can have
22 a copy of it, if you want. I don't mind sharing them

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1 with everyone. Everybody can have copies. If you
2 want them, you can certainly have them.

3 Q Why did you prepare those notes?

4 A Why?

5 Q Yes.

6 A In case you ask me a specific date, I can
7 refer to it.

8 Q How did you prepare that document?

9 A One of them I did it on a computer, on a
10 WordPerfect, on a computer.

11 Q What information did you use to prepare
12 that document?

13 A I used several sources of information. I
14 used a copy of my deposition from last year, and I
15 used copies of the reports that we turned over to
16 everyone that we turn them over to, whoever had
17 requested them.

18 Q Did anyone assist you in preparing that
19 document?

20 A No, sir.

21 Q Did anyone advise you to prepare that
22 document?

1 A No.

2 Q Did you tell anyone you prepared that
3 document?

4 A No. Was I not supposed to have that?
5 What's the problem with that?

6 Q There's no problem with having it. There's
7 no problem.

8 A I can see if I pulled something out I don't
9 want you to see, I would be concerned, but I'm
10 certainly happy to share that with everyone.

11 Q Again, just to -- our purpose is just to
12 get the facts as best we can. I know that you
13 probably have gone through this more times than you
14 would care to remember, with people asking questions
15 about these facts, and so I apologize if sometimes
16 the questioning becomes repetitive.

17 A You make me feel like I've committed some
18 sort of crime now because I pulled some notes out of
19 my pocket to check a date that I made. What have I
20 done here? Apparently violated a rule of something?

21 Q Captain, there's nothing wrong with you
22 preparing the document at all. There's absolutely

1 nothing wrong with it. It might be something we can
2 use, then, in trying to get a sense of the chronology
3 of events with regard to Mr. Foster's death. There's
4 nothing wrong with you preparing notes before you
5 come here to testify, absolutely nothing. I mean,
6 Neal can confirm that.

7 MR. KRAVITZ: I don't think there's
8 anything wrong with it, either. I think it was just
9 important for the record to be clear that the record
10 included information about when you made the notes.

11 THE WITNESS: Sure. That's all information
12 taken from the case file.

13 MR. KRAVITZ: And the record is completely
14 clear that you made no effort to hide the notes and
15 that you gave them to Mr. Giuffra.

16 THE WITNESS: Absolutely.

17 MR. KRAVITZ: And you said everyone can
18 have a copy and the record should reflect that.
19 Vinny --

20 THE WITNESS: I know any time I pull out
21 notes I have to share those notes. I'm well aware of
22 that. That's why I'm more than happy to share

1 those. I have no objection to it. I testify on the
2 stand -- usually I ask the judge, your Honor, may I
3 refer to my notes? I think that's standard
4 procedure, I believe.

5 MR. KRAVITZ: Vinny is coming in with
6 copies of the notes for everyone. Maybe we should
7 just make one copy of this Exhibit Number 2 to the
8 deposition.

9 MR. GIUFFRA: I think that's a good idea.
10 Let the record reflect that Mr. DeLeo has
11 written confidential and privileged on this
12 document.

13 (Hume Exhibit 2 identified.)

14 THE WITNESS: Getting back to this, this
15 first one, it has the date, a one-pager with the
16 large type. That was prepared one day this week.
17 The other one, I don't recall when that was
18 prepared. It could have been prepared last year
19 before I came up here. I don't know, or after that.
20 Maybe I prepared that because I was confused about
21 dates. I don't recall. But that one I already had
22 done and prepared.

1 BY MR. GIUFFRA:

2 Q Did you prepare the second two pages of
3 what we're calling Hume Exhibit 2 at anyone's
4 instruction?

5 A At anyone's instruction?

6 Q Yes.

7 A No, sir. I did that on my own, for my own
8 benefit.

9 Q Just because you were going to be doing a
10 lot of interviews?

11 A My best recollection, I probably did
12 that -- I don't know if I did it before or after I
13 was up here last year doing a deposition. My general
14 feeling is I did it before the deposition. I'd
15 probably done the same thing, used it when I was
16 here, but I may have done this after that because I
17 was so confused on some of the dates and things like
18 that to remember the sequence of events.

19 Q But you don't think you prepared this, say,
20 within a month of the events in question?

21 A These documents?

22 Q Yes.

1 A I know for a fact when I did this; I did
2 this this week. This one was probably done -- oh,
3 not within a month of the event, absolutely not.

4 Q That was my only question.

5 A Oh, no, no.

6 Q So what would be your testimony with regard
7 to this interview? Do you recall the interview?

8 A I don't recall an interview on August the
9 2nd of '93 or August the 3rd or August the 5th of
10 '93. That's no one but the Park Police. The only
11 involvement that I remember the FBI had were the two
12 agents that was at the White House with me, and they
13 did that thing on the note. They had some type of
14 investigation to do with the note.

15 Q On the question of whether Mr. Nussbaum
16 looked into the briefcase, did you ever have any
17 discussions with Detective Markland about that
18 subject?

19 A About Nussbaum looking into the briefcase?

20 Q Yes.

21 A Oh, I'm sure I did. That's normal. You
22 discuss the case. I'm sure we discussed that aspect

1 of it.

2 Q Do you recall anything about those
3 discussions?

4 A No.

5 Q Do you recall whether he said he had seen
6 Mr. Nussbaum look into the case?

7 A You know, I remember when we were sitting
8 in the office, like I've testified before, I saw him
9 bring up some papers. Look at Markland; Markland
10 sensed that I was concerned where those papers had
11 come from. Markland then said something to the
12 effect or led me to believe hey, Charlie, I saw where
13 he got them from, take it easy, something to that
14 effect, and that's -- I don't remember. Markland
15 said he saw it. I had no reason to doubt it. I just
16 don't recall the conversation.

17 I think he was probably in a better
18 position to observe at that point than I was. As a
19 matter of fact, I think he was probably a little bit
20 closer, where he was seated on the sofa. Like I
21 said, this was closer. The sofa was closer. This
22 whole thing moved up, so Markland and Special Agent

1 Salter would have been up here, and we might not have
2 been -- we were not advanced beyond the sofa. And I
3 may not have been exactly right here because I
4 remember when Mr. Burton had to walk out. I had to
5 move my chair. I may have been actually out here,
6 somewhere. This I'm a little more fuzzy on,
7 somewhere in this area.

8 Q Closer to the door of the office?

9 A Yeah, I was closer to the door than the
10 office.

11 Q Even later you might have been closer to
12 the door?

13 A No. I didn't -- I got up and did like this
14 and came back. I didn't actually get up and move.
15 I'm sorry, maybe I didn't clear that up.

16 Q Just so the record is clear, do you believe
17 that Mr. Nussbaum looked into the briefcase?

18 MR. KRAVITZ: Are you asking him to
19 speculate, or are you asking him whether he saw
20 Mr. Nussbaum look into the briefcase?

21 BY MR. GIUFFRA:

22 Q Based on the opportunity you had while you

1 were sitting --

2 A The first time he went down and brought
3 some papers up. I mean, there were papers in there.
4 That's where he came from. I don't know how much he
5 could have seen in there because there were papers.
6 Second time, I remember him picking it up and he's
7 talking. He just kind of did that, and he's
8 talking. He never took that briefcase and spread it
9 open and looked down at it like I would or you would
10 now in retrospect if we thought something was in
11 there. That never happened. It was never obvious
12 that he pulled that briefcase open and looked down in
13 it, that I remember.

14 To the best of my recollection, if he would
15 have done it, I would have put it in the report. I
16 remember I wrote that report -- if I didn't write it
17 that day, I wrote it the next day or so. That was a
18 report that was written because of that search in
19 that office and especially in light of the fact a few
20 days later, I think -- I just looked at my notes -- I
21 think it was the 27th or something I get the call at
22 home from Margolis telling me that the note is at the

1 White House; there's a note up there. Go get it.

2 And once we had been learned that it was
3 found in the briefcase, that would have been very,
4 very significant because that was one of the obvious
5 questions, if I remember, from Pete Markland's report
6 that, when we went back up there, was A, why didn't
7 you see the note that day when you took the papers,
8 looked in the briefcase or whatever. I forget how he
9 worded it in his report. And the other thing was why
10 did you delay calling us. I believe those were the
11 two critical questions he wanted asked when we went
12 back up there, and I'd have to say on --

13 MR. KRAVITZ: Have you finished your
14 answer?

15 THE WITNESS: I was going to say the best
16 recall that I have, he, in fact, did not pick that
17 briefcase up and pull it open and look down in it
18 saying okay, that's it.

19 BY MR. GIUFFRA:

20 Q Let me show you a document. This is Park
21 Police 36 and 37. Maybe I should turn to the first
22 page.

1 A It's a report that I wrote.

2 Q And this would be the report you wrote on
3 the review of documents from Mr. Foster's office?

4 A That's correct.

5 Q Do you believe that this report accurately
6 reflects what happened during the course of the
7 review of documents from Mr. Foster's office?

8 A Yes, I think so. And the reason -- I'll
9 tell you why this was written right within that week
10 or so; it had to be written before the 5th of August
11 because that's when we officially closed the case.
12 So it would be more current than what I'm trying to
13 remember to tell you here, yes. And if I put -- I
14 guess you want me to refer to something?

15 Q I was wondering if you could tell what date
16 you might have been looking at.

17 A It looks like August the 4th, but I can't
18 be positive, the way it's cut off, but that would --
19 it definitely looks like -- my best guess on that
20 would be August 4. Now, that doesn't necessarily
21 mean that's when I wrote it. That may have been when
22 I went through and signed all the reports because

1 back then I expect a secretary typed this -- a
2 secretary may have typed this for me, and that's when
3 I signed it. She could have typed it that very day,
4 the next day, put it back on my desk, and when I got
5 around to reviewing it and signing it --

6 Q Do you usually dictate your reports or
7 write them out in longhand or do you type them in
8 yourself?

9 A I do various things. Sometimes I'll use
10 WordPerfect and type my reports. Other times I'll
11 write it on a legal pad and have the secretary type
12 it in a draft form. Then I'll look at the draft and
13 then make any corrections and then I'll give the
14 draft back to her and have her put it to final, and
15 I'll shred the handwritten report.

16 Q Is it your practice typically to shred a
17 handwritten report after you've prepared the
18 typewritten report?

19 A Yes, always. Always, just -- well, there
20 are exceptions to everything, but that's normally my
21 practice. If I'm going to sit here and write about
22 what occurred today and have a secretary type it, I'd

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1 write it out on a legal pad. If I didn't go in and
2 sit down and do it on WordPerfect myself, and usually
3 in draft form, I'd look at it, give it back to her
4 and shred the draft, usually. Not always, I guess.
5 Sometimes I've kept stuff in a year, in years gone
6 by, but normally I shred what I write out. But that
7 would be verbatim to what I had on the written
8 report.

9 Q Let me just call your attention to the
10 second full paragraph, page 37. If you could just
11 read the sentence beginning "at one point I told" --
12 the sentence to "the desk" into the record.

13 A "At one point Nussbaum pulled some papers
14 out of a leather valise/briefcase that was sitting
15 behind the desk on the floor. We put them on the
16 desk and looked through them. He looked in the
17 valise/briefcase but did not take anything out of
18 it. A little later he moved the valise briefcase
19 away from the desk and placed it on the floor
20 adjacent to the exterior wall directly behind him and
21 the desk."

22 Q If I could direct your attention to the

1 clause "he then looked in the valise/briefcase
2 again."

3 A Right. I explained that he reached down,
4 he picked it up, he looked -- and he's talking almost
5 contemporaneous with all of this -- and, like I said,
6 he either put it back against the wall or sat it
7 down. And later -- I seem -- I remember like a
8 three-part event and I've tried to explain that. The
9 first time the papers came up. Second time was a
10 pick-up as he's talking. Third time he moves it
11 back. Whether that second and third time is one
12 motion or two motions -- if I said when it was fresh
13 in my mind, if I thought that was going to be
14 important, I would have put it in that report, but I
15 can tell you at no point do I remember him picking
16 that briefcase up and pulling it out like I would,
17 like I looked in it when I went back up there the
18 following week or whatever, after we had gotten the
19 call about the note when I went back a couple days
20 later and inspected it.

21 I remember I saw some paper in there, a
22 little fragment or whatever, but I was looking at it

1 and I actually -- it was obvious what I was doing
2 with the briefcase. It was obvious I was conducting
3 a search of that briefcase. I mean, I pulled it
4 open. I looked down in it. I even took my hands and
5 ran around the lip up here like this to see if there
6 was a piece of paper stuck under it. That was a
7 search, believe me, what I did. What Mr. Nussbaum
8 did was not as extensive as that. It was not that.

9 Q How long do you think he looked -- this
10 whole motion where he picked the briefcase up and was
11 talking and put it down again, how long do you think
12 that took?

13 A It didn't take long, but he's talking and
14 he's still got it there while he's talking. He's
15 looking at us and has got the briefcase, he went down
16 and looked and he's talking. It's one fluid sort of
17 motion except for a moment or so he's talking. And
18 if I remember correctly, he's not looking at the
19 briefcase, but I count that as one of my second --
20 like I said, I remember three contacts with that
21 briefcase. And I counted that as a separate contact
22 with that briefcase. And then when he moved it back,

1 that was the final and last contact he had with the
2 briefcase.

3 MR. KRAVITZ: The record should reflect
4 that as Captain Hume was describing this second time
5 that Mr. Nussbaum went for the briefcase, the witness
6 was demonstrating how Mr. Nussbaum was talking
7 straight ahead while holding the briefcase down to
8 his right side.

9 THE WITNESS: Right.

10 MR. KRAVITZ: Is that right?

11 THE WITNESS: Best I recall, that's
12 correct. You know, I've learned something. I
13 learned in The Washington Post Mr. Nussbaum testified
14 before the grand jury, Mr. Starr's grand jury. I
15 just find it incomprehensible that a man would go in
16 and lie to a federal grand jury. I mean -- no, it's
17 just -- I've thought and thought -- I've thought
18 about this for a long time.

19 Like I said, I think initially I said
20 something to the effect that yeah, I would have liked
21 to have known for sure if that note was in there or
22 not. I'd like to think that we, the police,

1 certainly would have found that note had we had that
2 opportunity at that time to go in there. I can't sit
3 here and tell you that he searched that in a way that
4 I think you want me to tell you. I can't do that.

5 Q Just want you to tell us what your best
6 recollection is. You've just testified that you
7 can't tell us whether he looked in the briefcase, is
8 that correct, or looked in it closely. Is that your
9 testimony?

10 MR. KRAVITZ: Do you understand that
11 question?

12 THE WITNESS: I don't know. I'm getting
13 really tired. The man did not -- he did not search a
14 briefcase the way I did, in fact, search it later
15 on. It was not that kind of search. He brought some
16 papers up, picked it up, he's talking, he looked
17 down, and he sat it back against the wall.

18 BY MR. GIUFFRA:

19 Q You don't know for sure; it's possible when
20 he looked down he might have seen the bottom of the
21 briefcase. You don't know one way or the other?

22 A I have no way of knowing that.

1 Q And again, you think that Detective
2 Markland had a better view of what Mr. Nussbaum was
3 doing than you did?

4 A Initially he did because I wasn't sure
5 where he had gotten those papers from. When he
6 picked it up, I would think he and I were probably
7 seeing the same thing, but I can't be positive. I
8 don't think -- like I said, I'm sure I've answered
9 that, but I'm sure we discussed it. But I don't
10 remember ever he and I saying okay, we agree. I'm
11 sure we both agreed he should have seen it, maybe, or
12 we thought he should have or we'd like for him to.

13 There's been many statements made about
14 that in that briefcase. That's been a real high
15 point. Obviously, when the note was found on the
16 27th -- I think that's when -- I'm sorry. It
17 probably was found on the 26th, but we got the call
18 on the 27th. That's why I brought those dates. I'm
19 not even sure about that.

20 Q Do you know whether Mr. Nussbaum has said
21 that he looked in the briefcase?

22 MR. KRAVITZ: What do you mean, has said,

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1 anywhere to anybody at any time?

2 THE WITNESS: Yeah, I'm not --

3 BY MR. GIUFFRA:

4 Q Do you know whether he ever said anything
5 to the Park Police about whether he looked into the
6 briefcase at a later date?

7 A No, not that I'm aware of. We went back
8 and talked to him a few days later when we talked to
9 Steve Neuwirth about finding it. He told us how he
10 came about finding the note. Mr. Nussbaum was in the
11 room there.

12 Q Did anyone ask Mr. Nussbaum about whether
13 he looked in the briefcase at the time?

14 A If I recall correctly, Detective Markland
15 told him what the captain recalled, and I'm not sure
16 right now what Nussbaum's statement is, but I believe
17 that's in a police report that Detective Markland
18 wrote.

19 Q Were you present during that interview?

20 A That's correct.

21 Q Why don't I just give you a copy of it.
22 It's 45 and 46 Park Police.

1 A I'd have to say two things, I guess. A,
2 you're right. I would have to say yes, Markland was
3 in a position to see better than I was. Or B, he has
4 a better or clear recollection than I do about to
5 spreading it open and whatnot, but I'm very clear --
6 I remember the three interactions with that
7 briefcase, three times.

8 Q After the document review was completed --

9 A Let me say something else, too, and maybe
10 you can clear it up with Markland. Maybe he, in
11 fact, was in a better position. But with two handles
12 on the briefcase, it would almost seem like -- I just
13 don't recall that. It seems like it would be clear
14 to me in my mind. I can see the briefcase now going
15 back against that wall. That's very clear.

16 I can see that, and I saw him when he had
17 it picked up and he's talking. And he's very
18 animated, you know, how he moves a lot when he talks
19 and things. I just -- it just seems like I would
20 remember it if he pulled that briefcase open and
21 spread it apart and looked in it, and I think I would
22 have put that in my report. But there again, I don't

1 know what you've talked to Detective Markland -- I
2 think he would be very forthcoming and explain it to
3 you, but I just don't remember.

4 Q Do you recall this interview with
5 Mr. Nussbaum?

6 A I recall it. I don't recall all the
7 crux -- I remember asking them -- I do remember
8 this. I asked Mr. Nussbaum and Mr. Neuwirth where
9 the briefcase was, and they said they had it there
10 someplace. I said do you mind if I look at it? And
11 Mr. Neuwirth went and got it and brought it back into
12 Mr. Nussbaum's office.

13 We were in his office at the time, and he
14 let me look at it, and I mean, I did a close
15 inspection of it. I literally -- I took it and
16 pulled it open and I remember like I said, looking
17 around the seams of it just to see if there was that
18 other little piece of note which probably wouldn't
19 have been significant anyway, but I was just
20 curious. It would certainly lead a lot of
21 credibility to the fact that the note was in there,
22 if I would have found the other piece in there.

1 Q Did you ever try to locate that other
2 piece?

3 A Just one --

4 Q Just the one time in the briefcase?

5 A Right.

6 Q Did you ask anyone about the other piece?

7 A I don't recall. I imagine it came up, and
8 at the initial time when Mr. Neuwirth explained that,
9 he put it on the table or something and put the
10 pieces back together and let the various people
11 review it.

12 Q During the course of this interview with
13 Mr. Neuwirth -- this is the only part of the
14 interview I want to focus your attention on, is the
15 discussion of whether Mr. Nussbaum looked in the
16 briefcase or not. Do you recall anything more about
17 it than what you've testified to here today?

18 A I remember that Markland said something
19 about -- actually, we had gone up to interview
20 Neuwirth. I think that's how he had set the
21 appointment up. In fact, Mr. Nussbaum was out, and I
22 think -- if I remember, Pete worded something in his

1 report since he was there, he made him the subject of
2 the interview, too.

3 So it was more of the four of us sitting
4 there discussing sort of situation instead of sitting
5 Mr. Neuwirth down at a table like we are now and just
6 the two of us and him. There was actually four of
7 us. I recall that. I recall looking in the
8 briefcase, and I recall those two things, two things
9 that Pete wanted to turn, and I mentioned why wasn't
10 the note seen that day and why so long to call us
11 after it, in fact, was found.

12 Q Do you recall anything more about what
13 Mr. Nussbaum said about whether he had seen the note?

14 A No.

15 Q Did Mr. Neuwirth say anything about whether
16 Mr. Nussbaum could have seen the note?

17 A I don't recall anything about that.

18 Q To the best of your recollection, what was
19 your belief at the time of this particular interview
20 as to whether Mr. Nussbaum officially inspected the
21 bottom of the briefcase?

22 MR. KRAVITZ: Can you state for the record

1 which interview you're talking about so the record is
2 clear?

3 MR. GIUFFRA: The interview of Stephen
4 Neuwirth on July 29, 1993.

5 THE WITNESS: What was the question again?

6 BY MR. GIUFFRA:

7 Q What was your belief on July 29, 1993 as to
8 whether Mr. Nussbaum visually inspected the briefcase
9 to determine that it was empty?

10 MR. KRAVITZ: On July 22, you mean?

11 MR. GIUFFRA: Yes.

12 MR. KRAVITZ: Do you understand that
13 question?

14 THE WITNESS: One more time. We got the
15 date right, July 22.

16 BY MR. GIUFFRA:

17 Q July 22 was the day when he reviewed the
18 documents and looked in the briefcase?

19 A Right.

20 Q On July 29, you and Detective Markland went
21 to interview Mr. Neuwirth, and you also interviewed
22 Mr. Nussbaum. That's correct?

1 A Right.

2 Q On that date, the day you went to interview
3 him, Mr. Neuwirth and Mr. Nussbaum, what was your
4 belief as to whether Mr. Nussbaum had visually
5 inspected the briefcase?

6 MR. KRAVITZ: On the 22nd?

7 MR. GIUFFRA: Yes.

8 THE WITNESS: What was my belief? Because
9 of my level of frustration, I believe he should have
10 seen it in there. I'm not sure that's answering the
11 question. My opinion is I thought if he had taken
12 those documents and searched, what we call a search,
13 at that point, I thought he should have found it
14 because if I was searching, if the police was
15 searching, since that was a critical item that we'd
16 want to search, I would assume that he would take
17 that briefcase back and forth home, that would be
18 something that would be important that we'd want to
19 look at.

20 BY MR. GIUFFRA:

21 Q Do you recall if Detective Markland
22 indicated to you what his belief was with regard to

1 whether Mr. Nussbaum visually inspected the
2 briefcase, bottom of the briefcase on July 22?

3 A I don't recall anything. You've got to
4 keep in mind we were still two people that were still
5 somewhat stinging, in a way, if I can use that word.
6 We were still a little frustrated that we'd run up
7 against something totally different than we had
8 encountered before, at least in my career. And I
9 don't know that Pete Markland has done investigations
10 at the White House. As long as I was the commander
11 of that unit when he was in there, I don't recall him
12 ever going to the White House on an investigation.

13 I'm sure at that point in time that we
14 would have liked to have seen things done
15 differently. But to -- I think we both shared a
16 certain degree of frustration. We didn't have a
17 whole lot of time after this fact, over the last
18 couple of years, really, to talk and compare notes.
19 He got promoted and left the unit and --

20 Q Do you remember, as you were going over to
21 interview Mr. Neuwirth and Mr. Nussbaum, whether
22 Detective Markland expressed any views to you at that

1 time, which would have been 29th of July, as to
2 whether he believed Mr. Nussbaum had visually
3 inspected the briefcase on the 22nd?

4 A I don't recall my conversations with Pete.
5 What he put in that report, I don't take any
6 exception to it. I don't disagree with that. If
7 Pete says he opened it up and looked at it, that's
8 his interpretation and that's what he saw; I don't
9 take exception of that. I don't know if that's where
10 you're going with that question, but he certainly can
11 have -- he could have a little bit of different view
12 than I did, perhaps.

13 Maybe there's a different interpretation of
14 what he calls a search and what I call a search, any
15 number of things. I tried to go over that and
16 explain that to you, how I searched it a few days
17 later. He did not do that, he did not do that kind
18 of search.

19 MR. KRAVITZ: Excuse me one minute. It's
20 now 2:30 in the afternoon. Bob, you've been going
21 from 9:30 with a half an hour for lunch. My next
22 deposition, as I told you several hours ago, starts

1 in a half an hour, and I haven't gotten to ask a
2 single question yet.

3 MR. GIUFFRA: I'm almost done.

4 BY MR. GIUFFRA:

5 Q Has your belief as to whether Mr. Nussbaum
6 inspected the belief changed over time, perhaps as
7 your frustration level has gone down?

8 A To a degree because I think the treatment
9 that we got up there I'm more tolerant of -- in my
10 mind I have a better understanding of things that
11 took place because of all the attorneys and the
12 various privileges and things like that. I guess at
13 first I thought we should be able to do pretty much
14 the same thing we do in any case anywhere else, and I
15 think after having gone through this --

16 Q If I could direct you --

17 MR. KRAVITZ: Can he finish his answer?

18 THE WITNESS: I've been in a grand jury
19 now, and that gets to be pretty serious business when
20 you have to testify -- I always thought that was
21 pretty serious when you go to testify on a grand
22 jury. And to sit there because a man picks a

1 briefcase up and looks at it, is that a search, that
2 means many things to many people is what I'm trying
3 to tell you. At the time I went up there, I would
4 liked to have gone and done everything the police
5 way, my way. Who wouldn't? The police are like
6 that. I'm here, I'll take charge. We're not faced
7 with that kind of a situation.

8 I've had time to think about this. These
9 questions have been asked quite a few times, as I've
10 mentioned here. I've had people say that he lied and
11 all kinds of other stuff, and I can't do that. I've
12 got no evidence to show that he's lied. The only
13 thing I can tell you is what I call the three
14 encounters from the briefcase, and I can tell you I
15 don't ever remember him opening that briefcase up and
16 doing what I call a search of the type that I did.

17 BY MR. GIUFFRA:

18 Q Again, I don't want to try to put words
19 into your mouth. I just want to try to -- you just
20 gave a long answer.

21 Just with regard to the question of whether
22 he visually inspected the briefcase, do you believe

1 your view has changed at all because of all the
2 events you just described in your answer?

3 MR. KRAVITZ: I object to that question.
4 You've just asked it. He's just answered it. I
5 don't even know what you mean by "inspected."
6 Everyone is using different words like "looked
7 inside" or "searched," and I don't want Captain Hume
8 to be confused as to what you mean by "inspected."
9 But you have just asked that question and he has just
10 given an answer. I think we should move on to
11 something else, particularly in light of what time it
12 is.

13 THE WITNESS: I would suggest that you
14 probably will have to haul him in and question him
15 and he can explain exactly what he did, at least
16 clear it up.

17 BY MR. GIUFFRA:

18 Q Just so the record is clear, the word
19 "inspected" comes directly from the report prepared
20 by Detective Markland.

21 MR. KRAVITZ: So?

22 MR. GIUFFRA: That's where it was taken

180

1 from.

2 THE WITNESS: He can explain that when you
3 question him.

4 BY MR. GIUFFRA:

5 Q After the briefcase was searched,
6 Mr. Nussbaum had put the documents into the piles --

7 MR. KRAVITZ: Objection. There's no
8 evidence in this deposition that the briefcase was
9 searched. To the contrary, the testimony is that
10 this witness did not see Mr. Nussbaum search the
11 briefcase.

12 BY MR. GIUFFRA:

13 Q Is that your testimony?

14 A Right, because I explained he didn't -- I
15 explained what I understand a search to be, how I did
16 the search. He did not do that.

17 Q You mean, stick his hands up inside --

18 A Or pull it open and look down in it, move
19 stuff around, put his hand in it, he didn't do any of
20 that.

21 Q The end of the review of the documents,
22 what happened next? Did you all just leave the

1 office?

2 A On that particular day?

3 Q Right.

4 A That's right.

5 Q Were you ever given the ability to look at
6 all the documents that Mr. Nussbaum reviewed?

7 A No.

8 Q So you never look at all of those
9 documents?

10 A No.

11 Q Were you given any documents to review on
12 the 22nd?

13 A No.

14 Q Was anyone from the Department of Justice,
15 so far as you know, allowed to look at the documents
16 that were in Mr. Foster's office on the 22nd?

17 A As far as I know, no.

18 Q Do you know, if you know, what happened to
19 the documents in Mr. Foster's -- that were in
20 Mr. Foster's office after you and the Department of
21 Justice people left the office?

22 A Well, not really. I do know that there was

1 some discussion that day in the office with
2 Mr. Margolis, something to the effect why should
3 these guys have to come back up here? Why don't you
4 allow the family attorney to take his personal
5 items.

6 And I think that was done because two of my
7 guys went over to the lawyer's office later on -- I
8 don't know when -- and reviewed those documents. And
9 there came a time when I went up to the Old EOB
10 building, I believe it was with Mr. Cliff Sloan, and
11 looked through some of the documents that might have
12 been in one of those piles that might be of interest
13 to the police. And that was phone messages and logs
14 and things like that, and we did look at some of
15 that. He allowed me to make copies of a couple of
16 pieces that I thought was pertinent to the
17 investigation. The third pile, that was White House
18 business, I don't recall seeing that. I don't know
19 what happened to that.

20 Q Do you recall when you looked at the
21 documents? Was it the Old Executive Office Building?

22 A I have that on my time line that I gave you

1 a copy of. It should be on there.

2 (Pause.)

3 BY MR. GIUFFRA:

4 Q Just to direct you back to Hume Exhibit 2,
5 would this be on July 30th?

6 A Right, that's correct. And that was
7 Mr. Sloan. According to my time line, that's
8 correct.

9 Q This is a document --

10 MR. GIUFFRA: I don't know how you want to
11 handle this, Neal. I can't really read the bottom of
12 that, what the page number is.

13 MR. KRAVITZ: I think it's number 141, Bob,
14 Park Police.

15 BY MR. GIUFFRA:

16 Q This is a document, Park Police 141. Does
17 that appear to be notes that you took on July 30th
18 when you looked at the documents in the executive
19 office building?

20 A That would be the best of my recollection.
21 Is that, in fact, the date? What did my time line
22 say?

1 Q Here's a copy of your time line,
2 Exhibit 2.

3 MR. KRAVITZ: What was the question?

4 THE WITNESS: That would be consistent;
5 both of them say July 30th, so that would be the
6 notes.

7 BY MR. GIUFFRA:

8 Q These are the notes you prepared?

9 A Right.

10 MR. GIUFFRA: This document -- again, it's
11 difficult to -- the number is torn off at the
12 bottom. I think it might be 50.

13 MR. KRAVITZ: I can't read it.

14 MR. GIUFFRA: Why don't we identify it
15 by -- this appears to be a supplemental criminal
16 incident record. It says -- first sentence --

17 MR. KRAVITZ: Actually, Bob, my copy of it,
18 it is clear that it's number 50.

19 MR. GIUFFRA: All right, we'll just say
20 it's 50.

21 BY MR. GIUFFRA:

22 Q What does this document appear to be?

1 A It's a report I wrote when we went up and
2 looked at the office and picked some of the
3 information up, and that's also consistent with July
4 the 30th.

5 Q Do you believe that report to be an
6 accurate reflection of what occurred on July 30th?

7 MR. KRAVITZ: Take your time to read it
8 before answering the question.

9 (Witness reviewed document.)

10 THE WITNESS: What was the question again?

11 BY MR. GIUFFRA:

12 Q Does the document that we've marked as Park
13 Police 50, to the best of your recollection, does
14 that accurately reflect what occurred when you went
15 to review the documents at the Old Executive Office
16 Building?

17 A On July 30th?

18 Q Correct.

19 A Best I can recall, sure. I don't recall
20 anything different.

21 Q Do you recall anything other than what's
22 stated in the report that the committee should --

1 A Whatever is on the notes. I don't recall
2 anything other than what's in these two documents.

3 Q Do you recall ever having any contacts with
4 a man named Tom Collier?

5 A Yes, I do.

6 Q What do you recall about those contacts?

7 A As a matter of fact, it was when we were
8 looking at these documents, either before, during or
9 after. I guess I had gotten a message to meet what
10 is called an assistant chief or something like that
11 and we either had to pick him up or be picked up --
12 we met him.

13 Anyway, we ended up together, Detective
14 Rayfield, myself, Assistant Chief Jordan and Tom
15 Collier up at the Department of Interior. I'm pretty
16 sure from looking now at those reports that was all
17 on the same day.

18 Q Do you recall anything about the
19 conversation with Tom Collier?

20 A I think he wanted to know if we had gotten
21 what we needed at that point, and I told him we had.
22 I don't remember it being a particularly long meeting

1 or anything.

2 Q When you say that you gotten everything
3 that you needed, what did you mean by that?

4 A That we had a chance to review those
5 messages, the message log, and people that had called
6 that had a little bit clearer understanding on how
7 the message thing up there worked.

8 Q When you spoke to Mr. Collier, when you
9 said you had gotten everything you had wanted to see,
10 were you referring just to the message pads, or were
11 you referring to something else?

12 A I would guess it was a whole case because
13 at that point, I don't think there's anything else --
14 any avenues that we hadn't pursued. I think we'd
15 either been redirected or we had gotten what we
16 wanted or I think we were in a better position to go
17 ahead and finish up the case and put it to file. I
18 had to make those phone calls to those people.

19 I got some additional information obtained
20 from those phone logs and those messages, and I made
21 contact with some of those people, I think. I think
22 I got ahold of the doctor maybe. I don't know what

1 sequence all this took place, but I think -- I don't
2 remember saying look, Mr. Collier, there's this, this
3 and this we still need to be done, and it hadn't been
4 done. I don't recall any of that at all, no.

5 Q Are you satisfied that the Park Police was
6 given access to all the documents that it wished to
7 review in connection with its investigation?

8 A At that point? I think I was at that
9 point. I don't recall -- and that's a good point.
10 When I went to Mr. Collier -- I didn't go to him. He
11 called me. I was directed to go up there. I don't
12 remember laying anything out to him that we wanted
13 done because I think by now we had already made
14 arrangements. So I had already interviewed
15 Mrs. Foster, I believe.

16 Q So were you satisfied with the procedure
17 that Mr. Nussbaum had used to review the documents
18 that were in Mr. Foster's office?

19 A Was I satisfied? We just went through all
20 that. I said no, I would have rather done it myself.

21 Q But you were not given access to all the
22 documents in Mr. Foster's office?

1 A That's correct.

2 Q So you've just testified that you had
3 received access to everything you wanted to see.

4 A Well, I can tell you now, if I would have
5 been allowed to walk in the office that night, I
6 doubt if I would have gone through those volumes of
7 health care. I don't think I would have had the
8 level of intelligence and sophistication to have
9 gleaned anything from that that would have assisted
10 me in that death investigation.

11 I might have had enough smarts if I smelled
12 something or saw something that didn't seem right,
13 turn it over to an auditor or laboratory or something
14 to get it examined. But I'm sure I would not under
15 any circumstances have gone through those if they
16 opened that door that night and said go to it. I
17 would have been overwhelmed, probably. I don't think
18 I would have found anything in that health care stuff
19 or volumes of books that would have been of interest
20 to the police.

21 Q I apologize to the Minority staff for
22 asking this question, but I think it's important. I

1 just want to get your testimony because at the public
2 hearings it's possible you may get asked this
3 question. I'm just trying to resolve what is an
4 inconsistency in my mind; maybe it's not for you. On
5 the one hand you would have liked to have reviewed or
6 had the opportunity to review all the documents in
7 Mr. Foster's office. On the other, you've indicated
8 that you, at least when you spoke to Mr. Collier, had
9 been given access to all the documents you had wanted
10 to see. Do you see any inconsistency in that?

11 A Well, not really. I guess at that point we
12 had probably before made the assumption if there was
13 something that someone wanted to cover up and not let
14 the police see, I think we had already come to that
15 conclusion, sir, that it was already removed,
16 probably. People already admitted going into that
17 office. That was no longer a scene or a room
18 containing potential evidence that was going to be
19 that beneficial. If there was a smoking gun in
20 there, there was ample time for people to remove that
21 smoking gun had there been one in there.

22 Q So your --

1 A What we would have liked, Mr. Collier
2 couldn't have helped us with because it was too
3 late. What we would have needed to have done to have
4 said that this investigation was done the way we knew
5 all other investigations were, what would make a
6 "normal investigation" would have been we would have
7 gone in there that night or early the next morning
8 before anyone else had been in there.

9 Q Your statement to Mr. Collier that you had
10 received access to all the documents --

11 A Did I say that? I'm not sure how I said it
12 exactly. I said there was nothing that I presented
13 or nothing that Mr. Collier needed to review this and
14 this. This is what gets me about this whole thing.
15 I can only remember the high point once, and the high
16 point would have been Mr. Collier, we still have a
17 problem. We need to finish the investigation. There
18 are things that need to be done here. I didn't tell
19 Mr. Collier that. Basically something to this, did
20 you get what you needed at this point? Yes, I got
21 what I needed. And that means at that point -- I
22 mean, what we understood we couldn't get anyway, so

1 why go back and say well, we would have liked this
2 and we would have liked that.

3 I don't remember any of that. Maybe he has
4 a better recollection of that than I do, but I don't
5 remember giving him a long list of things that we
6 still needed to do on this case.

7 Q So your point, just so I understand, is
8 that because persons had had access to the office
9 before Mr. Nussbaum had done his review, it made
10 no -- there was no reason for you to have an
11 opportunity to look at the remaining documents that
12 were in his office, in Foster's office?

13 A When Mr. Nussbaum put everything up in the
14 three piles and referred to the things on the
15 shelves, I don't know what else was there. I mean,
16 unless someone was hiding something, there was
17 something down there that he didn't pull out or
18 something. Like I said, he got up and he walked --
19 he indicated to some things in a bookcase and there
20 were binders and folders on health care and all, no.

21 Even though we may know they still may be
22 in there, I had no desire to look at those. And

1 based on -- that White House stuff, that they said
2 was strictly White House business, and you asked
3 several questions about finances and personal stuff;
4 that may very well have been in that pile, some of
5 that stuff. I don't recall. But there was a pile of
6 his personal things, and I think maybe his checkbook
7 and a photograph and some things like that, and a
8 diary. There was a diary because I remember my guys
9 going over and looking at that. The police got to
10 see that. The phone messages and things, they let us
11 see that. Sort of everything that was identified by
12 Mr. Nussbaum that day, what I felt at that time was
13 important, we had got to see.

14 Q Let me just show you another document.
15 This is -- I believe it's 55. This appears to be
16 another criminal incident record.

17 MR. KRAVITZ: Can I see that a second? I
18 don't have anything numbered 55. I think it's 52,
19 Bob. All the numbers are cut off on the bottom. I
20 think it's 52 and 53.

21 MR. IVEY: Yes, it would be 52.

22 BY MR. GIUFFRA:

1 Q What is this document?

2 A That's a report I had prepared after
3 contacting those people. I believe those -- most of
4 those names, all of them came off the phone log that
5 Mr. Sloan had given us.

6 Q With regard just to Mr. Lyons, does this
7 record reflect, to the best of your recollection --

8 A It reflects some of it, if that was the
9 question, but I guess I should wait.

10 Q Did you call Mr. Lyons?

11 A According to that. I know there were some
12 of those gentlemen I did and some I didn't. I may
13 have spoken to their secretaries or something, but
14 the way I read that, it looks like, in fact, I did
15 personally talk to him.

16 Q It says I contacted Lyons --

17 A I have some notes you should probably have
18 a copy of, too. There's probably more information in
19 the notes. I may have been getting tired of writing
20 it at that point. With the notes and the report, you
21 will have pretty much what we discussed.

22 Q This is another document. I think it's

1 43.

2 MR. KRAVITZ: 43 are not notes. It's a
3 report.

4 MR. KRAVITZ: Hey, Bob. It's now 2:58.
5 I've got to go upstairs to the other room and see
6 what's going on with my 3:00 deposition.

7 MR. GIUFFRA: Just to make sure the record
8 is clear, these are documents that have some bearing
9 on this matter. Not to ask him about them -- I don't
10 think this is an irrelevant matter that we're going
11 through.

12 MR. KRAVITZ: Did I say anything about
13 being irrelevant? I said it's 2:58; I have to go to
14 the other room where my 3:00 deposition is to begin
15 to find out what the deposition is going to be. It's
16 here?

17 MR. DE LEO: Yes, last I heard.

18 MR. KRAVITZ: We're going to need to break
19 and find out what's going on.

20 MR. GIUFFRA: Maybe we can end this entire
21 part of the examination and you will be able to start
22 because I don't have much more.

1 THE WITNESS: What's in that typed written
2 report and what's in my hand notes would reflect what
3 I know about Mr. Lyons.

4 MR. KRAVITZ: You mean from that telephone
5 conversation?

6 THE WITNESS: Right. I don't know anything
7 else about him. And you know, I don't want to.

8 BY MR. GIUFFRA:

9 Q Did Mr. Lyons indicate to you why he was
10 going to be speaking to Mr. Foster?

11 A I think he did. I'd have to look back at
12 that again. They were going to get together for
13 dinner and he was going to pay off a wager from a
14 basketball game.

15 Q Did he say anything about the possibility
16 that he would be representing Mr. Foster in any sort
17 of a legal matter?

18 A No, not to me.

19 MR. KRAVITZ: We're going to have to go off
20 the record and take a break because I have to go up
21 to the other room right now and find out what's going
22 on. I'm sorry, Captain Hume, but he's taken up 5-1/2

1 hours, and I haven't had a chance to ask you
2 questions, so hopefully I'll be able to come back and
3 we can finish this deposition.

4 MR. GIUFFRA: Could Mr. Ivey finish the
5 deposition for you?

6 MR. KRAVITZ: Why don't we determine that
7 after we find out what's going on upstairs. The
8 record should be clear this is not the first time
9 that the Republican staff has made a request like
10 that after having used up all the time for a
11 deposition, which is not only unfair, but it's rude.

12 MR. GIUFFRA: Just so the record can be
13 clear again, I really regret we have to do this. And
14 I apologize also to Captain Hines --

15 MR. KRAVITZ: Captain Hume, you mean.

16 MR. GIUFFRA: Captain Hume, I'm sorry.
17 It's been a long day for everyone. Captain Hume's
18 deposition last year went from 9:00 in the morning
19 and concluded at 5:10.

20 THE WITNESS: We took a two-hour lunch
21 break. That's why it was so long.

22 MR. KRAVITZ: While you're making the

1 record complete, why don't you tell him how many
2 pages in that deposition transcript are of questions
3 asked by Democratic counsel and how many pages are
4 asked by Republican counsel? Because if you can add
5 right, you'll see the Republican counsel who went
6 second had more pages, more time to ask questions
7 than Democratic counsel because we weren't trying to
8 hog the whole deposition last year, but you guys are
9 now. You ought to be ashamed of yourself.

10 (Recess.)

11 BY MR. GIUFFRA:

12 Q If Mr. Lyons was going to be representing
13 or was considering representing Mr. Foster in a legal
14 matter, would that have been information you would
15 have liked to have known?

16 MR. KRAVITZ: At what time?

17 MR. GIUFFRA: In the context of your
18 investigation.

19 THE WITNESS: Yeah, I think that could have
20 shed some light. That would let us know maybe that
21 there's another source of pressure or stress or
22 something that was causing him to take his own life.

1 BY MR. GIUFFRA:

2 Q If there had been documents in Mr. Foster's
3 office regarding a possible legal matter that might
4 impact Mr. Foster, would those documents have been
5 the kind of documents you would have liked to have
6 reviewed or been aware of?

7 A If I understand it, have there been legal
8 documents --

9 Q Let me try to rephrase the question. If
10 there had been documents in Mr. Foster's office
11 involving a legal matter affecting Mr. Foster, would
12 you have liked to have reviewed those documents
13 during the course of your investigation?

14 A Well, of course. Like I said earlier, we
15 would have liked to have reviewed all the documents
16 in there. To what degree, I've explained that. We
17 said okay, these eight volumes are health care. We'd
18 put those aside, I'm sure. If we saw something there
19 with a letter on it and it had the title that would
20 indicate a law firm, of course we would take a closer
21 look at it.

22 The lawyer may have sent a letter, someone

200

1 is contemplating legal action against him, divorce,
2 any number of things. We didn't know this
3 gentleman. Any of those things -- like I said
4 earlier, everything had to be taken in context. It's
5 very hard to say what would have been important and
6 what wouldn't have. We would have liked to have
7 looked at all of it and had the opportunity to make
8 that determination.

9 Q Let us suppose that Mr. Foster's office had
10 been sealed on the night of his death and no one had
11 entered, and let us suppose that there were -- strike
12 the last clause.

13 Let's suppose the office had been sealed.
14 And let us suppose that Mr. Nussbaum had permitted
15 the Park Police access to the documents in
16 Mr. Foster's office in the manner that he did. Would
17 you have been satisfied with the access to the
18 documents in Mr. Foster's office in that instance?

19 MR. KRAVITZ: Are you including -- when you
20 say Mr. Nussbaum permitted access to what he did, are
21 you including access to what Mr. Hamilton got in the
22 office later and what Mr. Sloan had in his logs, or

1 are you talking about the 22nd of July?

2 MR. GIUFFRA: You can include both of the
3 things that Mr. Kravitz just mentioned in the
4 hypothetical.

5 THE WITNESS: You know, sometimes I like to
6 answer hypotheticals with hypotheticals. If he's
7 going to do all that, why not let us go in and do
8 that. That's what I've said over and over: That
9 would have been my preference, for us to have gone in
10 and done it. I don't -- my best answer to that is
11 the way we would like to have done it, we would have
12 gone in and got the documents and made the
13 determination whether it was relevant or not.

14 BY MR. GIUFFRA:

15 Q Does that continue to be your view?

16 A And he certainly could have been there with
17 us and watched what we did and could have given some
18 aid and assistance to us. That would have been
19 nice. Oftentimes, people will do that. That's what
20 I'd rather had done.

21 Q Does that continue to be your view today as
22 you sit here?

1 A I've said that; yes, sir. That would have
2 been an ideal situation, but this was not an ideal
3 situation, the case that we found ourselves in.

4 Q We're very, very near the absolute end of
5 my questioning, and I apologize if this has gone on
6 for a long time. I know you've been asked to speak
7 about these matters on innumerable occasions; is that
8 correct?

9 A Yes. Don't try to get on my good side
10 now. Just get on with your questions.

11 Q And you've testified you've appeared before
12 the grand jury?

13 A That's correct.

14 Q And do you recall when that was?

15 A No. I can't tell you what I testified to
16 now.

17 MR. GIUFFRA: That's it. Again, I want to
18 thank you very much. I'm sorry it's taken -- I guess
19 this is over at 3:24.

20 EXAMINATION

21 BY MR. KRAVITZ:

22 Q Captain Hume, my name is Neal Kravitz, and

1 I'm counsel for the Democratic members of the Senate
2 committee. I'm going to ask you some follow-up
3 questions in some of the areas that Bob has asked you
4 questions in already. Hopefully my questions won't
5 be repetitive at all. And I also want to ask you
6 some questions in a few additional areas.

7 Back in 1993, did you have any general
8 practice that you followed in terms of taking notes?

9 A Oh, yeah. I can't tell you it was
10 consistent 100 percent all the time because I'm not a
11 working detective on the street.

12 Q So your practice varied from time to time?

13 A It could, depending on what situation I
14 caught myself in or found myself in at the time.

15 Q What was your general practice in terms of
16 taking notes at meetings or interviews or other
17 events that you might have attended in your official
18 capacity as a law enforcement official?

19 A Sometimes, if I had a chance and thought of
20 it, I might take a legal pad. If it's a staff
21 meeting to take notes for, I might brief my
22 subordinate supervisors or something like that. And

1 then, for example, we now have someone that comes in
2 and takes notes and writes those up and sends them to
3 us; I may not take those notes. That's why I say
4 that "sometimes." There's different situations. I
5 may use different methods. Back when I was a
6 detective working the street, I think it was a 007
7 notebook. I kept them inside the pocket all the
8 time. It was a standard. I can tell you that's
9 exactly the way I did it. Now --

10 Q In other words, when you were a full-time
11 detective, you were much more focused on taking notes
12 of everything related to an investigation you were
13 working on than you are now, when you're more of a
14 supervisor?

15 A That's correct. And it was a special
16 situation I found myself in with Detective Markland.
17 I expected him to take the notes. For example, when
18 we questioned Mrs. Foster. Pete was writing and I
19 was doing -- what little bit of questioning we had to
20 do, I was doing it. I told him, Pete, note that in
21 your notebook what time we requested them to seal the
22 room. I had Pete give me the notebook to write when

1 I talked to Mr. Heymann.

2 Q Did you have a notebook with you at the
3 White House on July 21, 1993?

4 A I don't believe I did, no, because I would
5 have used my own notebook, and I didn't.

6 Q So that was the day you wrote those notes
7 in Detective Markland's notebook relating to the
8 telephone calls you had with Mr. Heymann?

9 A That's correct.

10 Q What about the next day, July 22, when you
11 were conducting the witness interview of Betsy Pond?
12 Did you have your own note paper?

13 A No, I didn't. If I remember correctly, I
14 took a sheet of paper off the Xerox machine, the
15 copying machine. We were walking down the hallway to
16 go into that room or whatever, I got a piece of paper
17 off that and used that. To tell you the truth, I was
18 not prepared to interview her personally. I thought
19 Pete and the FBI agent would do all the interviews.
20 And for some reason, the decision was made they'd
21 take one, they'd take the other one. One agent went
22 with Pete. One agent went with me. I was not

1 prepared to do a formal interview.

2 Q Did you take any notes during the search or
3 the review of documents in Mr. Foster's office on
4 July 22?

5 A No, I'm pretty sure I didn't.

6 Q Was there any reason why you didn't take
7 notes during that search?

8 A No. I just -- I didn't see anything coming
9 from it that would be of any evidence. Believe me,
10 everything that came out of that is now kind of like
11 a historical sort of thing. Here all of us are in
12 that room, and here's what happened. It's unusual,
13 but I didn't -- I mean, we were not going in that
14 room to conduct any formal interviews. And I'm
15 pretty sure I would have took no notes because I
16 would have furnished or requested with those notes --
17 I wrote my report when I got back sometime at the
18 office. When, I don't recall.

19 Q Park Police investigation reports of the
20 time that Mr. Giuffra has shown you earlier in this
21 deposition have spaces for two signatures at the
22 bottom; is that right?

1 A That's correct.

2 Q One space is for the official who is
3 actually writing the report, and the second space is
4 for the signature of a supervising official; is that
5 correct?

6 A That's correct.

7 Q Are there procedures for how reports like
8 that are supposed to be signed off on?

9 A It's -- a lot of that is open to
10 interpretation. It has been four years. Sometimes
11 it means the supervisor has seen it and approved it.

12 Q If he signs it, you mean?

13 A Right. But approvement can mean many
14 things. Approvement means I know this detective that
15 works for me is investigating this rape, and I know
16 that he's got to make some effort to find out who
17 committed this crime. Every seven days you submit a
18 progress report, and obviously it's lax at times.

19 Sometimes it's 10 days or sometimes four
20 days if a development comes along, and that's
21 submitted to the supervisor. Sometimes some
22 supervisors let them stack up for weeks at a time.

1 Maybe they've already made the arrest and the final
2 report is done, and they'll sign off on all of them.
3 There's no real one set -- if I sign a report as
4 approving it, it could mean that I approved the
5 content. It could mean to some that I've approved
6 the fact that he's written a report and this is what
7 he's done on it. That's probably the best way I can
8 say it.

9 All I'm approving is that he did; I accept
10 that. That's acceptable to police practice. If he
11 says I place him in handcuffs -- if the officer
12 investigator would say I put handcuffs on him and
13 transported him in a cruiser and arrested him, and
14 sign it, approve it; to me, that's accepted police
15 practice. But if he says I shot him three times and
16 I took him and put him in jail and took him to the
17 hospital, I wouldn't approve the report. That's my
18 difference, is what I'm saying here.

19 Q Now, you were Detective Markland's
20 supervisor as far as the Foster death investigation
21 was concerned; is that right?

22 A That's correct. During that phase he and I

1 were involved together. I'd be considered his
2 supervisor as well as his official and coworker also,
3 but I was clearly his supervisor.

4 Q Does that mean that if Detective Markland
5 was writing reports related to the Foster death
6 investigation that you should have been asked to sign
7 those reports as his supervisor?

8 A That would be correct, but if he'd end up
9 giving one of those to his direct immediate
10 supervisor, I wouldn't have gotten upset. But I
11 think everyone in the office -- this case took on a
12 significance more than the ordinary case. And they
13 knew I had gotten involved in it, and most of them
14 wouldn't have had any problem with having me go ahead
15 and sign those.

16 Q Is there a requirement that every Park
17 Police report of this nature be signed by some
18 supervisor as opposed to having a supervisory
19 official's box being left empty?

20 A The book answer is I think they should be,
21 but oftentimes that doesn't happen.

22 Q Let me just ask you -- just assume

1 hypothetically that you and Detective Markland were
2 conducting a witness interview, for example,
3 together, jointly. And Detective Markland wrote up a
4 criminal investigation report or continuing
5 investigation report and then signed it as the
6 official writing the report and gave it to you as the
7 supervising official for you to review it. What
8 would you do if, in reviewing the report, you found
9 something that you thought was factually inaccurate?

10 A I wouldn't sign it. I might not sign it as
11 a supervisor. I might just sign it on the same side
12 with him in that block under his signature. I might
13 just sign it as part of the reporting officer.

14 Q Even if you found something that you found
15 was inaccurate?

16 A No, no, I'm getting to that. If I found
17 something inaccurate, he and I would have a
18 discussion. It could come down to the point where
19 we'd have to resolve this at the next level of
20 supervision; this would be my boss. I don't think
21 that would happen, but it could. No, no. You're
22 talking about if we jointly done this interview now,

1 we had done it together, and I heard this gentleman
2 tell us something, and you go back and write it up
3 different than what I heard it? No, I think I'd have
4 a problem signing it. We'd have to have a
5 discussion, and you'd have to let me see why I'm
6 seeing it different than him. That would certainly
7 generate discussion.

8 (Pause.)

9 BY MR. KRAVITZ:

10 Q I'll be jumping around a little to avoid
11 being repetitive, and I apologize for that, but it
12 will shorten things in the long run.

13 I want to direct your attention to the
14 morning of July 21, 1993 when you were at your office
15 at Park Police headquarters, and you were just
16 learning about Mr. Foster's death the night before.
17 Okay? I believe you testified that investigators
18 Rolla and Braun were in the office that morning at
19 the same time you were; is that right?

20 A That's correct.

21 Q Did either or both of those two
22 investigators, Rolla or Braun, brief you that morning

1 before you went to the White House as to what had
2 happened the night before?

3 A Like I've said, I'm sure there was
4 conversation, but you know, I didn't call John Rolla
5 into my office and say John, give me a briefing. I
6 didn't call Cheryl Braun in likewise. There was some
7 comments and information exchanged. You know, I knew
8 the fact that they were on another shift and yet they
9 were still -- obviously, when you got into the office
10 you knew there was something big that had gone down,
11 a case that had taken them through another shift.

12 I had several other things I was dealing
13 with. I didn't give my attention 100 percent to this
14 case. There were a couple of other issues, but there
15 was no -- as best I recall, there was no formal
16 briefing. We may use that term, I was briefed --
17 well, I was briefed, but it was not a formal
18 briefing. I learned collectively from a group of
19 people things that had happened, things that we still
20 needed to do, things that had taken place, and
21 eventually got the gist of what was going on.

22 Q And the group of people who filled you in

1 on the morning of July 21, 1993 about what had
2 happened the night before and what had been learned
3 the night before about what had happened included
4 Investigators Braun and Rolla; is that right?

5 A Right. They were still there.

6 Q And they were part of the group that filled
7 you in that morning?

8 A Right, right.

9 Q You testified while Mr. Giuffra was asking
10 you questions that at some point after the Senate's
11 hearings in the summer 1994, you learned about a
12 request to have Mr. Foster's office sealed. Do you
13 remember that testimony?

14 A Yes, that's correct.

15 Q Can you tell us what you learned, when you
16 learned it, and how you learned it?

17 A The best of my recollection -- I don't
18 think it was the newspaper. I think when I reviewed
19 the tapes that some of our people had made of the
20 hearings of that testimony, I think there was a
21 section where an officer had testified before the
22 Senate, and it was some time later. One of my

1 friends at work had suggested that I review those,
2 and I had looked at them after the fact, of course.

3 The best of my recollection, unless I saw
4 it in the newspaper, I think it was part of -- I
5 think it came out in those hearings, as best I
6 recall, because I was kind of surprised. I remember
7 they made a big thing about the pager, the fact that
8 we returned a pager, so I know that. I remember that
9 from the hearings, and that would be the best of my
10 recall on that.

11 Q Now, at some point on the morning of July
12 21, 1993, when you and Detective Markland were at the
13 White House complex, Mr. Nussbaum and a woman came
14 down to speak with you; is that correct?

15 A Right. And Detective Markland.

16 Q To speak with you and Detective Markland?

17 A Right. Well, whether there was someone
18 just for that, I don't know, or whether they were
19 coming down and headed in another direction. But it
20 did come a point where --

21 Q They came and spoke with you?

22 A Right.

1 Q Whether that was their sole purpose or
2 not. Okay, thanks. Can you give us a physical
3 description of what that woman looked like?

4 A I want to think she looks like a light
5 skin, perhaps as light as Glenn's complexion,
6 African-American, best I recall, but light
7 complected. Not a heavy-set woman, not a tall woman,
8 fairly attractive. But I don't know if I saw her
9 picture some time later and said that's who I saw and
10 I'm giving you a description of someone I saw in the
11 paper, but I sense that I'm not, and that's why I
12 said somehow now I tend to think she may have been
13 Maggie Williams, but it could have been someone else.

14 Q Did Mr. Nussbaum introduce himself to you
15 and Detective Markland?

16 A I believe he did, and I believe the lady
17 was introduced, too. I think it was all cordial and
18 professional introductions and so forth, as I told
19 this gentleman earlier. There was nothing hostile or
20 unusual about it. It was cordial.

21 Q Is it accurate to summarize your testimony
22 by saying you're positive that it was Mr. Nussbaum

1 who came down and spoke with you and Detective
2 Markland, but you're not sure -- it might have been
3 Ms. Williams, but you don't know?

4 A Right.

5 Q I want to ask you a couple of questions
6 about the conversation you described having had with
7 Chief Langston a week or so ago in relation to your
8 testimony last year and your upcoming deposition
9 today. Do you understand?

10 A Okay, I understand the question, but I hope
11 I didn't say in the last week or so. It was last
12 summer, I believe.

13 Q That's my mistake, then.

14 A Unless I made a mistake, but I believe I
15 said last summer. It was sometime after the initial
16 hearings, and -- remember, I learned I could have had
17 an attorney if I wanted one and no one told me that.
18 And I was very upset because people started coming up
19 to me on the job and giving me a hard time like I
20 didn't show up at the hearing. I took a beating,
21 believe it or not.

22 Q For not testifying at the hearings?

1 A Right. People thought I had done that
2 intentional on my job. I had one official come up
3 and say I'm not the only one that gets in trouble and
4 I said what are you talking about? I didn't know
5 what he was talking about. That's when I was very
6 upset and called the chief about the noncommunication
7 problem.

8 Q At some point you had a conversation with
9 Chief Langston about your use of the word "joke" in
10 testimony before the Senate last year, 1994; is that
11 correct?

12 A That's right.

13 Q Is it your testimony that this conversation
14 with Chief Langston occurred shortly after the Senate
15 hearings in 1994?

16 A Right. The best of my recollection, that
17 would be the timetable on that, the sequence.

18 Q Have you had any conversation with Chief
19 Langston about your testimony in the Whitewater
20 matter since that time in the summer of 1994?

21 A That's the only time I remember ever
22 talking to him about it. As a matter of fact, I

1 didn't even -- the notification this time to come
2 here came through my supervisor. I think Major Hines
3 called him and told him about it. And I had gotten a
4 call from one of the interior lawyers, but just to
5 tell me the time.

6 Q So have you talked to Chief Langston about
7 today's deposition?

8 A No, sir.

9 Q Not a single word?

10 A Not a single word.

11 Q Did your conversation with Chief Langston
12 at the end of the summer 1994, has that conversation
13 affected what you told us here in this deposition?

14 A Oh, no, absolutely not.

15 Q Did Chief Langston tell you last summer
16 when you spoke with him that if you ever were to
17 testify before the Senate, you should say you were
18 more upset back in July of 1993 about what happened
19 at the White House than you should have been?

20 A No, absolutely not.

21 Q Is your testimony based on not only what
22 you observed and heard, but on reflections and

1 thoughts that you've had about the matter the past
2 two years?

3 A Absolutely, mine and mine alone. No one
4 will tell me how to testify, and I'll make that very
5 clear. I've got 25 years on the Park Police. I've
6 got my retirement coming up, and I can take it, but I
7 like my job. I'm going to stay.

8 Q On the morning of July 22, 1993, you were
9 involved in an interview of Ms. Betsy Pond; is that
10 right?

11 A That's the morning of the --

12 Q 22nd, Thursday the 22nd of July?

13 A That's right.

14 Q And I believe you testified that Stephen
15 Neuwirth was present throughout that interview?

16 A You know, that's that one I haven't been
17 clear on, whether it was Neuwirth or Sloan. And I
18 asked this gentleman here to get that report, and I
19 think we did see Sloan in a report.

20 Q Let me rephrase the question, then.

21 A I believe that -- it was either Neuwirth or
22 Sloan, and I believe we cleared it up. It's just

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1 getting late.

2 Q Let me ask it this way: One of the White
3 House attorneys who works with Mr. Nussbaum was
4 present throughout that interview; is that right?

5 A That's correct.

6 Q It was either Cliff Sloan or Steve
7 Neuwirth?

8 A That's right.

9 Q In your opinion, did the presence of that
10 White House attorney interfere in any way with your
11 ability to get information, relevant information from
12 Ms. Pond in that interview?

13 A No.

14 Q In fact, I think you said before that that
15 attorney actually helped Ms. Pond remember something
16 that she told you at the end of the interview; is
17 that right?

18 A Not quite like that. I think the way I
19 stated that was, in fact, having him there did give
20 me some additional information. If I remember
21 correctly, that's where I learned, or it corroborated
22 what I had learned that Mr. Foster had attended a

1 ceremony in the Rose Garden.

2 Q So, if anything, the presence of the White
3 House lawyer resulted in the Park Police receiving
4 additional rather than less information during that
5 interview; is that right?

6 A The way you ask it, that's correct.

7 Q Just one question about the -- well,
8 actually, I'm sorry, a couple of questions about the
9 actual office search or document review that took
10 place in Mr. Foster's office on the afternoon of July
11 22, 1993.

12 You testified that at some point during
13 that process Mr. Nussbaum had in his hand a news
14 article or some news articles, but he said they were
15 privileged. Do you remember that?

16 A That's right.

17 Q And I think you said at the time you viewed
18 that as being extreme or absurd, something like that;
19 is that right?

20 A Ridiculous, right.

21 Q You didn't understand how Mr. Nussbaum
22 could be claiming privilege for something that was

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1 publicly available, as far as you knew?

2 A Right.

3 Q Do you know whether the newspaper article
4 or articles that Mr. Nussbaum had in his hands may
5 have had handwritten notes on them or anything like
6 that that would have been in addition to just the
7 published articles?

8 A I don't recall anything. I mean, it could
9 have. Like I said, as I remember, there was a window
10 there and I could -- best I could tell, it was like a
11 copy of an editorial. And I may be wrong, but it
12 seems to be the substance of what that was. It was a
13 copy of some editorial that had been written by
14 Mr. Foster himself.

15 Q But as far as you remember, David Margolis
16 from the Justice Department appeared to be agreeing
17 with what Mr. Nussbaum was doing with regard to those
18 newspaper articles?

19 A That's right.

20 Q In terms of claiming privilege?

21 A Right.

22 Q At some point during the office search in

1 Mr. Foster's office on July 22, 1993, Agent Salter
2 stood up; is that right?

3 A Right.

4 Q And then Clifford Sloan said something to
5 him?

6 A Best I recall, it was Sloan, that's
7 correct.

8 Q What was Cliff Sloan's tone of voice when
9 he said whatever it was that he said to Agent Salter?

10 A He didn't yell. It wasn't threatening. It
11 was more insulting, I guess. I think any of us
12 probably would have thought that was somewhat of an
13 insult. That's the best -- I don't want to use that
14 word condescending because that's just not a word I
15 use in my vocabulary. I guess insulting would be a
16 word that I would use.

17 Q Other witnesses who were present have
18 described what Mr. Sloan said as an offhand remark,
19 kind of like a joke. Would you agree or disagree
20 with that characterization?

21 A It was inappropriate, I guess.

22 Q You think it was inappropriate?

1 A Is that what offhand --

2 Q More like a joke, like he was kidding.

3 A I didn't really get that impression, but
4 I'm on the other team. I'm on the other side here
5 so, you know, I didn't sense it was a joke.

6 Q You would not agree with the
7 characterization?

8 A I don't think Special Agent Salter thought
9 it was a joke, either. His reaction, of course,
10 didn't indicate that to me.

11 Q Fair enough. I'm not going to ask you any
12 questions about the briefcase. I think we've beat
13 that one enough. Actually, let me ask you one
14 question about the briefcase and just make it clear.
15 At the time that Mr. Nussbaum actually picked up the
16 briefcase and was holding it along his right side --
17 I think you said that would be the second time that
18 Mr. Nussbaum touched the briefcase in your presence
19 that day -- were you able to see the briefcase?

20 A At that point, I don't know if I can see
21 100 percent of it. I seem to think I did, but I knew
22 then it was that case because he put it back against

1 the wall. So I saw enough of it to know that it was
2 the same item he put back against the wall, I guess.

3 Q You testified earlier about a conversation
4 that you had with Tom Collier. Do you remember that?

5 A Yes.

6 Q When was that conversation?

7 A Best recollection, it was the 30th of July,
8 from looking at the notes and all here, and I want
9 to, seem to even think it may have been a Friday.
10 I'm not sure.

11 Q Do we have Exhibit Number 1? Let me show
12 you Deposition Exhibit Number 1 --

13 MR. GIUFFRA: I think it's Exhibit
14 Number 2.

15 MR. KRAVITZ: You're right, it's Exhibit
16 Number 2.

17 THE WITNESS: That's July 30th, and that
18 was a Friday.

19 MR. KRAVITZ: That's all I have, Captain
20 Hume. Thanks a lot.

21 THE WITNESS: That was fairly painless, I
22 guess.

1 MR. GIUFFRA: Captain Hume, I want to
2 apologize if at any point today you felt as if I was
3 trying to elicit information from you in a way that
4 you felt was uncomfortable because this has been a
5 long day. I know you've testified on a number of
6 occasions, so that makes it difficult for both the
7 questioner and presumably also for yourself. We also
8 very much appreciate you coming here.


9 THE WITNESS: Thank you.

10 MR. KRAVITZ: Why don't we go off the
11 record.

12 (Whereupon, at 3:57 p.m., the deposition
13 was concluded.)
14

15 -----
16 CHARLES W. HUME
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I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

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SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE 0

REPORT AREA	MONTH	DAY	YEAR	DATE INCIDENT OCCURRED	YEAR	CASE INCIDENT NUMBER
United States Park Police	07	20	93	07	20	93
TYPE OF INCIDENT	RECLASSIFICATION OF INCIDENT					
Death Investigation	Suicide					

RESULTS OF INVESTIGATION

Synopsis/Conclusion

On 7/20/93 at approximately 1800 hours this Department was notified by an anonymous caller that a dead body was discovered by a citizen at Fort Marcy, Virginia. The caller was subsequently identified by USPP Investigators and it was determined that a W/M, approximately 50 years of age, driving a white Chevrolet work van, had discovered and reported the body to the previously unidentified caller. This person has not been identified.

The decedent was identified as Vincent W. Foster, Deputy Legal Counsel to President Clinton. Notification to Mr. Foster's wife was made and an autopsy performed on 7/21/93. The autopsy and resulting toxicology revealed no signs of pre-existing health problems, alcohol or drug usage by the decedent. The cause of death was a "perforating gunshot wound to the mouth - head".

Interviews conducted at the White House revealed that Mr. Foster had left his office on 7/20/93 at approximately 1310 hours. Mr. Foster, who was always instantly accessible in the past, did not answer an electronic page initiated by Mr. Bernard Nussbaum, Chief Counsel to the President, at 1830 hours. The White House issued pager had been recovered by investigators at the death scene. The pager had been turned off.

Further investigation and calls from citizens support a finding that Mr. Foster drove into Fort Marcy, at approximately 1445-1500 hours, by himself in the vehicle found at the scene.

The investigation has revealed that Mr. Foster was, within the past two weeks, experiencing a great deal of difficulty handling the stress associated with his office. He had considered seeking psychiatric help, and was provided with several doctors names by a family member. He had confided in his wife his difficulties and had recently tried to set aside family time to relieve some stress. The Foster family doctor was contacted in his home state of Arkansas. The doctor prescribed an anti-depressant drug and one tablet was consumed by Mr. Foster on the evening before his death. (***the 50 mg tablet of Traxodone is an extremely low dosage; and is not be considered to be a contributing factor).

The revolver recovered at the scene of Mr. Foster's death (from his hand) had properly been passed down to Mr. Foster after

REPORTING OFFICER	DATE	TIME	LOCATION	STATUS	REMARKS	DATE	TIME	LOCATION	STATUS	REMARKS
REPORTING OFFICER	DATE	TIME	LOCATION	STATUS	REMARKS	DATE	TIME	LOCATION	STATUS	REMARKS
REPORTING OFFICER	DATE	TIME	LOCATION	STATUS	REMARKS	DATE	TIME	LOCATION	STATUS	REMARKS

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SUPPLEMENTAL CRIMINAL INCIDENT RECORD

States Park Police		MO	DAY	YR	YEAR	CASE/INCIDENT NUMBER
INQUIRY DIGIT OCCUR?		0	7	2	0	93
GENERAL INVESTIGATION		RECLASSIFICATION OF INCIDENT				
Suicide						
RESULTS OF INVESTIGATION						

A handwritten note that the White House Counsel's Office reported they found on 7/26/93 and was turned over to this Department on 7/27/93 documents the observations of a very disturbed and overworked individual who sees himself as having failed the Clinton Administration. The note was examined by Mr. Foster's wife who declared that it was her husband's handwriting. The questioned document was compared, by an expert, to documents known to be handwritten by Vincent Foster. The expert's findings concluded: "Both the Known and Questioned Documents were completed by the same writer/author and that writer/author is known as Vincent W. Foster."

Based on the aforementioned synopsis of the facts and circumstances presented, the writer requests that the investigation be "Closed" and that the Manner of Death ruled as "Suicide".

		10-10 TECH NOTIFIED		11-INVESTIGATOR NOTIFIED		PAGE 2 OF 2 PAGES	
OPEN <input type="checkbox"/> SUSPENDED <input checked="" type="checkbox"/> CLOSED BY <input type="checkbox"/> ARREST <input type="checkbox"/> EXCERPTED <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> REASONING DATE 12-1-77 INVESTIGATOR REASONING DATE 12-2-77 SUPERVISOR REASONING DATE 12-2-77 FILED [Signature]							

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription

1/26/93

Captain Charles W. Hume, United States Park Police is assigned to the U.S. Park Police facility at 1901 Anacostia Drive, Southeast, Washington, D. C. Captain Hume was interviewed at FBI Headquarters. Captain Hume was advised of the official identities of the interviewing Supervisory Special Agent and Assistant Counsels Judith Wish and Marlene Wahowiak of the Office of Professional Responsibility, Department of Justice (OPR/DOJ).

Captain Hume was advised that the FBI was in the process of conducting an administrative inquiry and that the inquiry concerned the conduct of the FBI in connection with its contacts with White House personnel in the White House Travel Office (WHTO) matter. Additionally, Captain Hume was told that the inquiry also dealt with written comments made by Vincent Foster of the White House staff to the effect that the "FBI had lied in its report to the AG."

Captain Hume advised that the body of Vincent Foster, Counsel to the President, was found in a Federal park in Northern Virginia on the evening of 7/20/93. Captain Hume became involved in this inquiry at approximately 6:30 a.m. on 7/21/93 when he reported to work. It was Captain Hume's understanding that on the evening of 7/20/93 no effort was made by U.S. Park Police personnel to go to Mr. Foster's office at the White House, in an effort to obtain any evidence which would shed light on the belief that Mr. Foster had committed suicide. Captain Hume advised that since Lieutenant Robert Kass, the Head of the Major Crime Squad was out of town, he (Captain Hume) decided to take over management of the Foster matter.

Captain Hume advised that he and Detective Pete Markland went to the White House on the morning of 7/21/93 in order to conduct appropriate investigation. Their intention was to examine Mr. Foster's office for notes, indications of any relationships that would impact on a suicide attempt, use of medication, or any documents which would shed light on motivation for suicide. Upon arrival at the White House, Captain Hume

Investigation on 12/20/93 at Washington, D. C. File # 62-HQ-1055310
by SSA Robert J. O'Brien RJO:cah Date dictated 12/22/93

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Continuation of FD-302 of

Captain Charles W. Hume

, On 12/20/93

Page

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requested that Mr. Foster's office be sealed by the U.S. Secret Service Police. According to Captain Hume, someone at the White House (the prior evening) had already requested that the room be sealed. Captain Hume noted that when he arrived at the White House Major Robert Hines and Chief Robert Langston of the U.S. Park Place Police were also at the White House. They were there to brief Mack McLarty, Assistant to the President, and George Stepanopolous, Press Spokesman for the White House. They spoke briefly to Captain Hume. Captain Hume thought it was strange that they were going to brief the White House officials on the investigation when they hadn't an opportunity to discuss the matter with Captain Hume. Captain Hume recalls Major Hines telling him that as soon as the U.S. Department of Justice gives the authority to go ahead, Captain Hume would be able to conduct the necessary investigation in Mr. Foster's office.

Captain Hume advised that they were met by Bernard Nussbaum, Chief Legal Counsel to the President, who told them that they would not be able to review documents in Mr. Foster's office until they had been reviewed by his staff because there was the possibility of Executive Privilege on certain documents. Captain Hume advised that delay continued during the course of the morning and both he and Detective Markland decided to go back to their office for lunch and return later to the White House to continue their efforts to conduct a logical investigation.

Captain Hume and Detective Markland returned to the White House at approximately 1:00 p.m. During the course of the morning, Captain Hume had spoken to an Assistant United States Attorney in the Eastern District of Virginia concerning the case and had also called the Washington Metropolitan Field Office of the FBI in order to interface with FBI agents who would be involved in the investigation. At approximately 1 p.m. on that date, SA Scott Salter and another FBI agent from WMFO joined Captain Hume and Detective Markland at the White House.

Captain Hume remembers that Chief Langston recalled that Attorney General Janet Reno had once mentioned to a group of officials that if there was ever a concern about an investigation that the head of an organization should never hesitate to call her concerning the matter. As a result, Chief Langston called AG Reno and told her the U.S. Park Police was having difficulty in obtaining access to Foster's office to conduct a logical investigation. Captain Hume believes that as a result of that

F 000000

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Continuation of FD-302 of Captain Charles W. Hume, On 12/20/93, Page 3

call, AG Reno got in touch with Departmental officials David Margolis, and Roger Adams, who subsequently came over to the White House. Captain Hume recalls receiving a telephone call from Deputy Attorney General Heyman, who advised him that the two officials who were coming over were career DOJ employees and not Presidential appointees. In the afternoon of 7/21/93, Captain Hume along with Detective Markland, the two FBI agents, and two Secret Service Agents were summoned to the office of Bernard Nussbaum. The office was so small that Captain Hume could not get into the office. Present at the meeting also was Messrs Margolis and Adams. It is Captain Hume's understanding that Mr. Nussbaum told the group that they were not going to be able to access the documents without his review.

At approximately 4 p.m. or 5 p.m., 7/21/93, Captain Hume recalls the group assembling outside the Executive Office Building and discussing what they intended to do the following day. Captain Hume also recalls that at approximately 6 p.m. or 7 p.m., he had to return to the White House with some personnel effects which had been taken from Mr. Foster's body which were to be returned to Mrs. Foster. It is Captain Hume's understanding that President William Clinton wanted to return these items to Mrs. Foster personally, on the following day.

Captain Hume advised on 7/22/93 that he and Detective Markland returned to the White House and were joined by FBI agent Salter and one other FBI agent. They arrived at the White House about 8 a.m. Eventually a total of approximately 13 people assembled in Mr. Foster's office. Captain Hume recalls that Mr. Nussbaum was sitting behind Mr. Foster's desk and standing behind Mr. Nussbaum were White House Counsels Steven Neuwirth and Clifford Sloan. On one side of Foster's desk was White House Counsel Charles William Burton. On the other side of the desk was Michael Stafford, attorney representing the Foster family. In front of the desk was Messrs Margolis and Adams from the Department of Justice, Captain Hume, Detective Markland, Special Agent Salter and the other FBI agent, and two Secret Service Agents. The group of investigators were sitting and or standing in front of the desk and it was a very crowded area.

The top of Mrs. Foster's desk was very neat and orderly. There was one stack of documents on the desk. The discussion basically went on between Mr. Margolis and

F 000804

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Continuation of FD-302 of

Captain Charles W. Hume

On 12/20/93

Page

4

Mr. Nussbaum. Mr. Nussbaum made three stacks on the desk. One stack were items that he believed involved Executive Privilege, another stack were items that he believed may be questionable about Executive Privilege and a third were items he considered to be personal items. The stack of personal items Mr. Nussbaum said would have to be turned over to the family attorney for review before they could be turned over to investigators. The stack that was believed to have Executive Privilege would not be shown to the investigators and the stack containing questionable items would have to be reviewed further.

There was discussion back and forth between Mr. Nussbaum and Mr. Margolis. Captain Hume does recall on one occasion that Mr. Nussbaum picked up a newspaper article and claimed Executive Privilege and put it on the appropriate stack. Mr. Margolis debated that decision in view of the fact, that if it was already in the newspaper he could not see why the White House could claim Executive Privilege. They discussed it back and forth but basically Mr. Nussbaum's position held out. On occasion, Assistant Counsel Neuwirth and Sloan were asked and/or volunteered comments to Mr. Nussbaum concerning the documents. The bottom line is that none of the documents were shown to the investigators on that date. Captain Hume believed this to be a very ridiculous situation which did not provide the investigators the logical information that they needed to resolve their inquiry.

Captain Hume recalls Mr. Nussbaum taking documents out of a brief case that was reportedly Mr. Foster's, on three separate occasions in his effort to divide the documents in the piles on this desk. Captain Hume advised that this was the same briefcase that later, on the following date, Assistant Counsel Neuwirth would find a torn note written by Mr. Foster. Captain Hume is confident that if an appropriate search would have been done by investigators on 7/22/93, that note would have been found during the course of that search.

Captain Hume does recall Mr. Nussbaum making some comments concerning a real estate development binder that was in the office. It was not on Foster's desk. It was on a bookshelf or a credenza. Mr. Nussbaum said it would be given to the family attorney since it dealt with a business arrangement for the President. Captain Hume did not recall any further information concerning this binder. On 7/22/93, no items were taken from

F 002395

1958

FD-302a (Rev. 11-15-83)

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Continuation of FD-302 of Captain Charles W. Hume , On 12/20/93 , Page 5

Foster's office by investigators. Captain Hume did recall coming back to the White House on the following day and obtaining copies of messages and copies of Foster's calendar for July of 1993 from Assistant Counsel Sloan.

There was no clear understanding made by Mr. Nussbaum to the investigators as to when they may have an opportunity to review the documents in the three piles. The personal items were subsequently given to Foster's attorney Jim Hamilton and Captain Hume advised that Lieutenant Robert Kass and Investigator John Rolla of the U.S. Park Police subsequently reviewed these items at a later date, at a law office in Washington, D. C.

Captain Hume advised that he received notice that Assistant Counsel Neuwirth had found a note at the White House which was believed to be written by Mr. Foster. This information was provided to Captain Hume on 7/27/93 and Captain Hume dispatched Joe Magby of the U.S. Park Police to go to the White House to pick up the note. The note was taken to Captain Hume's office. It was subsequently examined by a U.S. Capital Police handwriting examiner who compared it with a known written document by Mr. Foster and determined that it was written by Mr. Foster. The note subsequently was turned over to the FBI Identification Division for review.

Captain Hume recalls returning to the White House on a later date and at his request he was subsequently allowed an opportunity to review the briefcase where the note had been obtained. He was interested in one final piece of the note which apparently was not recovered by Assistant Counsel Neuwirth. After examining the briefcase, Captain Hume was unable to find the small piece of paper.

REDACTED PORTION

F 002396

1959

-302a (Rev. 11-15-43)

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Continuation of FD-302 of Captain Charles W. Hume , On 12/20/93 , Page 6

- Captain Hume is confident that Mr. Foster committed suicide, but he is also adamant that Mr. Nussbaum prevented the U.S. Park Police from conducting a thorough and timely investigation in this matter.

F 1002097

FAMILY'S
APPROVED

JAMES HAMILTON

424-7826

363-3020

WEBB HUBBELL

514-9500

When body can be
released,

(Clinton St. St.)

Craig ← with security

LIVINGSTONE - respond
to Fairfax Hosp. - in body

Come down stairs

ok. (Crime Hq. +) with bar.
observed (records?)

Catherine Gallagher

Notified for

Webb Hubbell

1300 hrs.
That body can be
released

118

1961

Bernie Nussbaum

JANET ROOD

↓
ANAKS

Pat. Hines ACP
SOB

HEYMAN

Philip HEYMAN

574-2101

Dep. Atty. Gen.

395-4420

4:26 PM. ◆

Criminal Div.

Justice Dept. Rep.

- Roger Adams

Senior - David Margolin

Justice Command

514-5000 Center

119

1962

Mark: Superwin

A.U.S.A. 4:50 P.M.

~~Leiser~~ Larry Leiser

5:10 P.M. (7)(A)

Hegmann called
Back from Justice.

→ President's Counsel's
office

arrangements with
counsel's office

Seal off area.

120

Mr. Wussman.

1310 - left office

the lunch Office

Tried to page @ 1430

No response

He (Wussman) left office
@ 1430 Home 8-400.

No unusual behavior.

Betsy Ford.

Joseph Gorkan.

~~For~~ Interview

+ 0830

ALVINGSTON SAID HE WAS
NOT IN OFFICE TODAY

(7) (A)

1964

CLIFF SLOAN

456-2132

456-1414 ~~14~~

~~4.4~~

10/15

Mr. Nassbaum interviewed

2200 - 2400 7/20/93

Pussy Thomson - (FIA)
(works for Watkins?)

Maggie Williams

(Hillary Clinton Chief of staff)

~~all three looked for possible role.~~

No documents returned

7/21/93

(MS) 7-215 Secretaries
piled paper

9 AM Mr. Nassbaum
looked again.

Opening only took paper basket
and it was returned.

122

HILLWRIGHT.

SA SCOTT SAVER

7/22 @ -

POLL

DEBORAH GORHAM

- March 8, 93 Hire date

- Left 11:30 on 7/20

Does not know about
Lunch- Conversation last Thursday
about differences in language
and government.

- NO unusual behavior.

1:45 lunch

11:32 - 1:10

Exec. Asst. - Betty Smith -

Lunch Thib

Staff Asst. - Tom Cassanova

Volunteer MARCARE MCCOY

No reason whatsoever to deal
with physicians professionally.

Last Thursday Mrs.

Foster asked for his

pay schedule.

~~She~~ ^{her} checking account

was overdrawn.

Credit Union said they

would work with

Mrs. Foster. She was

authorized ^{by Mr. Foster.} to p.u. statement

every Friday for Mrs.

Foster.

Check stub filed -

"all gone away"

1000

Tom Costerton -

Did work ^{Lucit} that day

Remembers June 2

Came not place time

Said "so long" when he

left. ~~for~~ after lunch

Mr. Foster was "In his

own world." Focused,

absorbed.

7/22

1150

LINDA TRIPP -

800 -

Denise - Daniel

No personal dealings -

DID not have anything
(briefcase, bag etc...) with
him - absolute ly.

Pers. Notes

7/20 Call log

Newspaper article copy?

Insurance Policy Folder.

NAME ON EXIT PASS

May Business Calendar

JANUARY PHONE SURPS.

Goshen.

Within the last
two weeks. Calls
from Vince JR. +
Wife asking how
he doing how his mind.

7/29 @ 1130

Mr. Nussbaum's office

H.E. Steven Newirth

7/26

Mon 10-1400 Heist

Newirth ✓

Nussbaum ✓

Bill Burton

Fues McCluskey

-1

Lisa Foster

POTUS (Ibined of ex-ten)

ATT. Gen. → U.S. Post

Hayne → 1700 → Case 1980

COMPLETED

No POSSIBLE Documents

3 or 4 work related.

Phone Log?

Assembly

Will review.

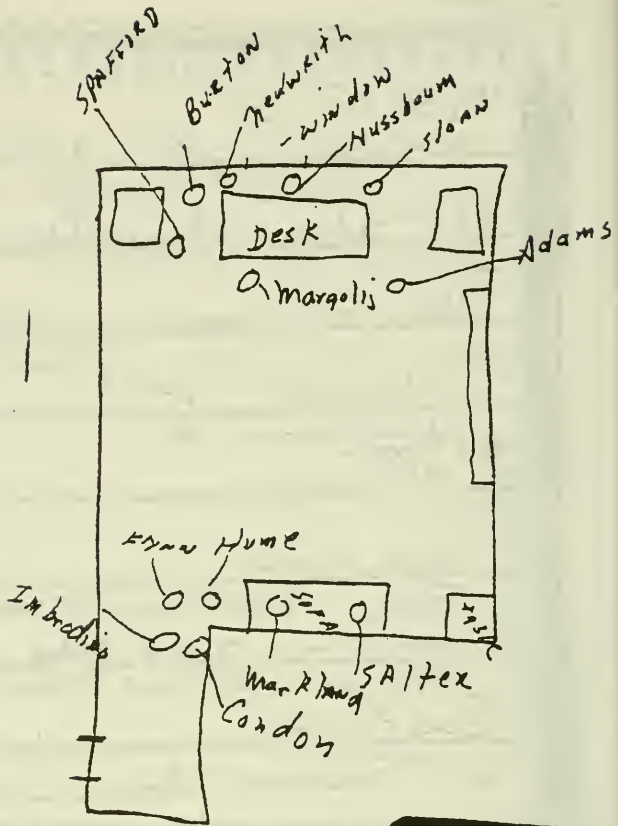
Kiki - Dinner

bke

1972

NOT TO SCALE

6/29/95



DEPOSITION
EXHIBIT
1
Hume

7-20-93 FOSTER'S body is found

Issues in A.M. on 7/21/95: Contractors needing to get in vehicle seizure lot (met at approx. 10:15 AM at lot) Investigator complaining about police dispatcher because child molester escaped capture by police. Operational Lieutenant was absent for training. Senior Sergeant (supervisor) was on vacation. Only supervisor in Major was new to the Branch (one week)

7-21-93 First KNOWLEDGE of CASE
Contact at WH with INSPECTOR MARTIN, USSS UNIFORM DIVISION (11:20 am request to secure office)
First Contact with NUSSBAUM

after-noon Telephone contact with Phil Heyman (4:26 PM & 5:00 PM)
LARRY LEISER (AUSA Alexandria) (4:50 PM)
DAVID MARGOLIS & ROGER ADAMS

7-22-93 Interview BETSY POND (with FBI S/A CONDON)
Associate Counsel CLIFFORD SLOAN present
USSS ASAC PAUL IMBORDINO

after-noon Search of Office (1315-1450)

Bernard Nussbaum	David Margolis
William Burton	Roger Adams
Clifford Sloan	Donald Flynn
Steven Neuwirth	Paul Imbordino
Michael Spafford	Hume & Markland
	S/A Salter & Condon, FBI

7-27-93 MARGOLIS calls me at home rel. note
MEGBY picks up note

7-28-93 HUME received note (27 pieces)

7-29-93 MARKLAND & HUME interview NEUWIRTH & NUSSBAUM rel. note

7-30-93 HUME & RAYFIELD visit CLIFFORD SLOAN at EOB-review and pick up phone & calendar log.

8-5-93 USPP officially close and put case to file.

8-10-93 Justice Department press conference.

1974

July 20	Tuesday	- 6:03 PM Foster's body found @ Ft. Marcy Park
July 21	Wednesday	- 6:30 AM I learned about death - 11:00 AM (approx) Markland and I arrive at White House - vehicle processed - autopsy performed
July 22	Thursday	- interviews conducted in AM @ White House (1:15 PM - 2:49 PM) visited Foster's office - metal detecting done @ Ft. Marcy - firearm trace requested
July 23	Friday	- weapon processed for prints
July 26	Monday	- awaiting decision on interviewing Mrs. Foster - ALL CONTACT TO BE ARRANGED THROUGH JIM HAMILTON
July 27	Tuesday	- Rolla and I interview Beryl Anthony - RECEIVED CALL FROM DAVID HARGOLIS DIRECTING ME TO GET NOTE FROM WHITE HOUSE
July 28	Wednesday	- Phillip Heyman called 6:09 PM "do what you normally do" - retrieved note from my office and turned over to ID. - Rolla and Kass inspect Foster's personal items @ Hamilton's office
July 29	Thursday	- Markland and I interviewed Steve Neuwirth and Bernard Nussbaum at 11:30 AM in reference finding note - 4:30 PM Markland and I interviewed Mrs. Foster
July 30	Friday	- FBI given original note - Rayfield and I got phone log from Clifford Sloan - Rayfield, A/C Jordan and I meet with John Collier (administrative assistant to Interior Secretary) - I spoke to Dr. Beyer - Toxicologist report was negative and everything consistent with suicide

1975

August 2	Monday	- telephone contact with Dr. Larry Watkins - telephone contact with Brant Buck's Secretary - telephone contact with Jim Lyons - JIM HAMILTON CALLED TO SEE WHEN WE WOULD CLOSE OUR CASE SO FAMILY COULD REST EASY
August 4	Wednesday	- copy of autopsy report received
August 5	Thursday	- telephone contact with Gordon Rather - Anthony said sister-in-law ID'd gun - CASE OFFICIALLY CLOSED AND CLASSIFIED AS A SUICIDE
August 6	Friday	- met David Margolis and Phillip Heyman @ Department of Justice and dropped off copy of Foster case jacket
August 10	Tuesday	- Press Release @ Department of Justice
August 12		- letter from USPP to ATF to requesting physical evidence examination dated this date
August 17		- ATF laboratory report of results dated this date

**DEPOSITION OF ROY M. NEEL
IN RE: S. RES. 120**

THURSDAY, JUNE 29, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ROY M. NEEL, called for examination
pursuant to notice of deposition, at 3:05 p.m. in Room 640-A of the
Hart Senate Office Building, before DAVID L. HOFFMAN, a No-
tary Public within and for the District of Columbia, when were
present:

MICHAEL CHERTOFF, Esq.
Majority Special Counsel
RICHARD BEN-VENISTE, Esq.
Minority Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
TIMOTHY P. MITCHELL, Esq.
Minority Professional Staff Member
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JUSTIN D. SIMON, Esq.
ELAINE METLIN, Esq.
On behalf of the Deponent.

CONTENTS

WITNESS	EXAMINATION
Roy M. Neel by Mr. Chertoff	3

P R O C E E D I N G S

Whereupon,

ROY M. NEEL

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CHERTOFF:

Q Would you spell your name for the reporter, please?

A Roy, R-o-y; Meeks, M-e-e-k-s; Neel, N-e-e-l.

Q Mr. Neel, before we proceed with some questions, I just want to give you some preliminary information concerning the nature and the rules of the proceeding we're conducting. My name is Michael Chertoff. I'm special counsel to the Senate committee which is investigating Whitewater and other matters. Richard Ben-Veniste, who has walked out of the room for the moment but will be back, is special counsel on the Democratic side. He's here with Lance Cole and Tim Mitchell, who are also with him.

MR. CHERTOFF: Can we just take a break

4

for a second?

(Recess.)

BY MR. CHERTOFF:

Q Mr. Neal, you understand this is a deposition conducted pursuant to Senate Resolution 120, which establishes a special committee to conduct an investigation into Whitewater Development Corporation and other related matters. Section 1(b)1 of that resolution authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death."

That's going to be the focus of today's deposition. You understand that?

A Yes.

Q How did you come to learn of our request for you to testify?

A White House counsel called me to relate this request.

Q Did you receive anything in writing?

1 A No; no.

2 Q Were you asked in connection with this
3 deposition to produce any documents to the White
4 House counsel or directly to the Senate?

5 A No.

6 Q On previous occasions, have you been asked
7 to produce documents in the context of some kind of
8 investigation?

9 A No.

10 Q Do you have any documents that you know of
11 in your personal possession that relate to the manner
12 in which the investigation of White House Deputy
13 Counsel Vincent Foster's death was handled?

14 MR. SIMON: Counsel, I'm going to try to
15 take a low profile. But I assume your question is,
16 as he understands the issues, because I think there
17 is an element of legal conclusion to that.

18 As long as it's understood that way, his
19 answer will stand.

20 THE WITNESS: To the best of my knowledge,
21 no.

22 BY MR. CHERTOFF:

1 Q Let me explain to you that there's going
2 to be a set of public hearings, probably some time in
3 the middle of July, that are going to follow on this,
4 and that there's a possibility -- certainly I can't
5 predict now; I may be able to predict at the end of
6 the end of the deposition whether you'll have to
7 testify.

8 If, in fact, you do testify, we do want
9 you to testify to what you know. We'll give you
10 ample notice in advance.

11 A When did you say hearings would be?

12 Q The beginning or the middle of July at
13 some point. And we can work with the scheduling if
14 that issue arises.

15 I'm going to ask you a series of questions
16 which you have to answer under oath. If you don't
17 understand a question, let me know and I'll rephrase
18 the question. I'm going to ask you not to speculate
19 or guess unless I ask you to speculate or guess.
20 Otherwise, I'm interested in your personal knowledge,
21 whether you obtained it from direct observation or
22 participation, or whether you heard it from somebody.

1 If you need a break for any reason, let me
2 know.

3 A Sure.

4 Q The stenographer here is going to prepare
5 a printed transcript of the questions and answers,
6 which we're going to treat as committee confidential
7 until the hearings begin. Once the hearings begin,
8 some or all of that deposition may become public.
9 Four days before the hearing begins, a copy of that
10 transcript will be made available at the Senate for
11 you to come and review and make corrections. But I
12 should advise you that if you make corrections which
13 are more than clerical or ministerial, those
14 corrections could themselves require a redeposition.

15 If you are requested to testify as a
16 witness, you will get a copy of your deposition four
17 days before you're due to testify, on the condition
18 that you and your counsel agree to keep it
19 confidential among yourselves, and not to disseminate
20 the content in writing or orally.

21 I see you are represented by counsel.
22 They've given their names to the reporter.

1 MR. CHERTOFF: Can I ask which counsel is
2 going to be speaking for the record?

3 MR. SIMON: I will be doing the speaking
4 for the record. I will. If circumstances require,
5 Ms. Metlin can also speak for the record. But I will
6 be doing most of the speaking.

7 BY MR. CHERTOFF:

8 Q If you want to consult with your attorney
9 in the middle of this, just indicate, and we'll go
10 off the record.

11 A Sure.

12 Q There may be objections as to the form of
13 questions. After the objection is taken, you can
14 answer the question. There may be objections in
15 which the attorney indicates that, or raises the
16 possibility of your being instructed not to answer.
17 If such an objection is raised, wait until we finish
18 discussing it, and then -- depending on whether the
19 instruction stands or not -- you'll answer or not
20 answer the question.

21 A Clarify what you mean by "the
22 instruction."

1 Q Let's say your lawyer objects on the
2 ground of invasion of attorney-client privilege. We
3 may discuss the issue. We may agree, we may
4 disagree. In any event, your lawyer may instruct you
5 not to answer, and then you can follow that
6 instruction if you wish.

7 A Okay.

8 Q But I should tell you that, if such a
9 circumstance arises, at some future point we may go
10 before the committee chairman and get a ruling about
11 the question, and then require the question to be
12 answered if the committee chairman so ruled.

13 A Sure.

14 Q Is all this clear for you?

15 A Yes.

16

17

18

19

20

21

22 Q What is your current business address?

10

1 A 1401 H Street, Northwest, Suite 600,
2 Washington 20005.

3 Q How are you currently employed?

4 A I'm president and CEO of the United States
5 Telephone Association.

6 Q What is that?

7 A It's a trade association of local
8 telephone companies around the country.

9 Q How far did you go in school?

10 A I have a graduate degree from Harvard.
11 I'm a Master of Public Administration.

12 Q When did you get that?

13 A 1983.

14 Q Were you in school continuously up until
15 you got that degree, or did you break?

16 A No, I had two breaks.

17 Q What were the breaks?

18 A I had a break between 1966 and 1970, or
19 '65 and '70 in undergraduate school, in which I left
20 undergraduate school and went into the Navy and
21 served in Vietnam, came back, finished undergraduate
22 school. Then I was in the workplace from 1972 until

1 1982, when I took a year off and went to Harvard to
2 do the graduate program.

3 Q What did you do during that ten-year
4 period?

5 MR. SIMON: '72 to '82?

6 MR. CHERTOFF: Yes.

7 THE WITNESS: '72 to '82?

8 BY MR. CHERTOFF:

9 Q Uh-huh.

10 A I held a number of jobs in Nashville,
11 Tennessee. In 1972, I worked for the mayor of
12 Nashville in several capacities. I started and ran a
13 small media and management consulting firm. I was
14 the acting state director for the Tennessee Committee
15 for the Humanities, the Nashville affiliate of the
16 NEH. And then I came to Washington in early May of
17 1977 with then-Congressman Al Gore, and served with
18 him continuously until I left the Vice President's
19 staff to go to work for the President.

20 I took a leave from his office in the fall
21 of 1982 to attend Harvard.

22 Q So that after you got your degree from

12

1 Harvard, you continued to work with -- I guess then-
2 Senator Gore?

3 A No, then-Congressman Gore.

4 Q And then you stayed with him when he
5 became a Senator?

6 A That's correct.

7 Q You worked on the presidential campaign in
8 '92?

9 A That's correct.

10 Q You began, you say, in the office of the
11 Vice President in 1993?

12 A That's correct. After the inauguration, I
13 became the chief of staff to the Vice President.

14 Q Then when did you move over to the
15 President's office?

16 A I moved over to be the deputy chief of
17 staff in May of 1993. I continued to serve in a kind
18 of advisory role to the Vice President while the Vice
19 President was recruiting a new chief of staff. I
20 sort of wore two hats for a month or so, and moved
21 into a permanent office in the White House in, I
22 think, late May.

1 Q After late May of '93, and through August
2 of '93, did you have an office in the West Wing of
3 the White House?

4 A I did.

5 Q Where was that in relation to the office
6 of the chief of staff?

7 A It was in the chief of staff's suite.

8 There were three spaces: the chief of staff's office,
9 a reception and support staff area, and then a small
10 office within that suite. And that was my office.

11 Q Is that a corner office within the West
12 Wing or that suite?

13 A No. The chief of staff's office is the
14 corner. The suite is in the corner. But my office
15 was not in the corner.

16 Q Is the chief of staff's suite, or was the
17 chief of staff's suite, directly below the suite of
18 the office of the Counsel to the President?

19 A That's my memory.

20 Q Was there an elevator in the vicinity,
21 within maybe 15 or 20 feet, as you came out of the
22 front of the suite?

14

1 A Yes.

2 Q Just generally, what were your
3 responsibilities as deputy chief of staff to the
4 President during the summer of 1993?

5 A I was involved in routine management of
6 administrative affairs, miscellaneous troubleshooting
7 on administrative activities. I routinely convened
8 meetings on special projects, to simply coordinate
9 activity within the White House. I convened the
10 deputy assistants to the President for a weekly
11 meeting. I was immediately responsible for the work
12 of the schedule and advance team of the President,
13 and largely served in a coordinating role in many
14 respects. And I was an advisor to the chief of
15 staff.

16 Q Putting aside your own attorneys and
17 anybody who has been working for law enforcement
18 that's been investigating this matter, have you had
19 any conversations concerning the handling of
20 documents in Vincent Foster's office since July of
21 1993?

22 A Since Mr. Foster's death?

1 Q Correct.

2 A Any conversations with anyone related to
3 the handling of documents?

4 Q That were in his office.

5 A Conversations with anyone?

6 Q Except for your lawyer or lawyers, and
7 people who were investigators or prosecutors or
8 people from the special counsel's office.

9 A I'm sure I had casual conversations with,
10 you know, friends, neighbors, acquaintances --
11 perhaps people in, you know, the administration who
12 happened to be friends and acquaintances.

13 Q What about if I limited the circle to
14 people who work or have worked in the White House
15 since June, July of 1993?

16 A It's possible that I had casual
17 conversations about the accounts of the handling.
18 But I was gone from the White House when these
19 conversations largely began.

20 Q When did you leave the White House?

21 A I left the middle of December, around the
22 15th. I took two weeks of vacation, and my last day

16

1 of employment was December 31.

2 Q 1993?

3 A Right.

4 Q Have you ever had a conversation with
5 Maggie Williams concerning the handling of Vincent
6 Foster's documents?

7 (Pause.)

8 A The handling of Vincent Foster's
9 documents? I can recall one conversation with Maggie
10 Williams when the existence of a note and shreds of
11 paper was made public. There was a provision in that
12 note referring to conduct of the ushers' office.
13 Maggie, as the First Lady's chief of staff, had some
14 responsibility in the management of the residence
15 staff, and Maggie and I had a conversation about how
16 this would affect the ushers, since it was out there
17 and being discussed in the media and whatnot, and
18 there was great uncertainty about what it meant.

19 We talked regularly, several times a day,
20 given our respective management roles. And we
21 discussed, you know, what we should say to the
22 ushers, if anything, to set aside misunderstandings

1 and that sort of thing. That's the extent of any
2 conversations I would have had with Maggie about
3 anything related to documents attributed to Vince
4 Foster.

5 Q What about conversations about that
6 subject with Patsy Thomasson?

7 A I don't recall anything with Patsy
8 Thomasson.

9 Q What about conversations about that
10 subject with Bernard Nussbaum?

11 A I would have had conversations with Bernie
12 Nussbaum when he made it known that he had found some
13 shreds of paper and had turned them over to the
14 Justice Department, I believe, in which -- you know,
15 I remember a conversation in which he said, you know,
16 there was a note. We don't know what it was. I've
17 turned it over to the Justice Department. That was
18 pretty much the extent of it.

19 Q In terms of the structure of the White
20 House in July and August of 1993, did you have a
21 direct reporting relationship with Mr. Nussbaum in
22 which he reported to you?

1 A No. He reported to the chief of staff.

2 Q Did he also have a direct reporting
3 relationship to the President?

4 A I'm not familiar with what his
5 understanding was with the President.

6 Q But he didn't report to you?

7 A No.

8 Q In connection with the deposition here,
9 have you had any conversations with anybody
10 concerning your testimony here, other than your
11 attorney?

12 A Yes. When I received this invitation to
13 come from the White House counsel, I asked the
14 counsel --

15 MR. SIMON: Excuse me. If I can
16 interrupt, I'm trying to avoid any attorney-client
17 communications here. I think the thrust of your
18 question, if it could be made more clear -- I think
19 what you're assuming is the substance of his
20 testimony.

21 BY MR. CHERTOFF:

22 Q I'd like to know if you had any

1 conversations with anybody about your testimony. But
2 I'm willing to exclude Jean Sherbourne, if that's the
3 person you're referring to.

4 A Yes, that's correct.

5 Oh, I'm sorry. There's one other person.

6 I had a conversation very briefly with Mark Gearan
7 to determine whether he felt good about the work that
8 his attorney had done for him, because I was seeking
9 counsel to help to advise me in this process. And
10 that was the extent of it.

11 Q Other than that, and other than
12 conversation with your family, nothing else?

13 A No.

14 Q Directing your attention to July 20, 1993,
15 where were you on that day?

16 A Was that the evening of Vince Foster's
17 death?

18 Q Yes.

19 A I was at home watching television with my
20 children.

21 Q When did you first learn Mr. Foster had
22 died?

20

1 A Some time that evening, I received a call
2 from Bill Burton, who was an assistant to the chief
3 of staff, who called to inform me that Vince had been
4 found dead, and he was believed to have been shot,
5 and they knew little more than that.

6 Q Do you remember what time that was?

7 A My recollection was that it was somewhere
8 between 8 and 10 o'clock. But I don't remember.

9 Q Had you worked with Vince Foster at all
10 previously?

11 A Had I worked with him? He was a colleague
12 at the White House.

13 Q Had you worked with him personally? Had
14 you had much personal interaction with him?

15 A Not much.

16 Q Having received that call, did you go to
17 the White House?

18 A No.

19 Q Did you take any other action other than
20 listening on the telephone?

21 A No.

22 Q Were you asked to do anything?

1 A No.

2 Q What did you say to Mr. Burton? What did
3 you ask him in that conversation?

4 A We commiserated about the tragedy of it.
5 I knew Vince casually, and was just shocked and
6 stunned. What was it? What do they know about it?
7 Was it a suicide, you know, and so on and so forth.
8 And the answer was, well, we just don't know. Just
9 expressions of shock, and that was about it. The
10 conversation only lasted a few minutes.

11 Q Do you know where Mr. Burton was when he
12 made his call to you?

13 A No.

14 Q Did you give Mr. Burton any instructions
15 at all?

16 A No.

17 Q Did you give anybody any instructions?

18 A No.

19 Q Did you know at that point where Mr.
20 Foster's body had been found? Were you told where
21 his body had been found?

22 A I have a vague recollection that Bill

22

1 Burton told me that he had been found at Fort Marcy
2 Park, whatever that facility is out there. But
3 that's it.

4 Q Was there any discussion that evening with
5 Mr. Burton about the possibility of there being a
6 note?

7 A No.

8 Q Was there any discussion --

9 A Excuse me. Let me clarify that.

10 I may have asked, was there a suicide
11 note, just as a question. And he said, I don't think
12 so, or they don't know. There's a vagueness about
13 that. But I could very well have said, did they find
14 a suicide note.

15 Q Did you talk to anybody else that evening?

16 A My recollection was that I might have been
17 called by one or two people, just to commiserate,
18 from the White House: isn't it sad, isn't this
19 tragic.

20 Q Did you call Mr. McLarty that evening?

21 A I don't remember talking to Mac that
22 evening.

1 Q Let me show you what's been previously
2 marked as Bates number Z 758, which is a message pad
3 page produced from the White House to "Mac," whom I
4 assume would be Mr. McLarty, date 7/20, time 6:05,
5 from you after 7:30 with a message; and ask whether
6 that refreshes your recollection that you had a
7 conversation with Mr. McLarty.

8 (Document handed to witness.)

9 MR. SIMON: But this is before he found
10 out about it.

11 THE WITNESS: We were working on many
12 things at the time. We often talked in the evening.
13 I don't recall what this would have been about.

14 BY MR. CHERTOFF:

15 Q At this point of time, 6 o'clock, had you
16 heard anything about Vincent Foster being found?

17 A I don't think so. I don't remember the
18 time when Bill Burton called me. My recollection was
19 that it was considerably later than 6 o'clock.

20 Q And you recall that you were home?

21 A Yes. Can I see that again? Is that with
22 my home number?

1 (Document handed to witness.)

2 THE WITNESS: Yes, that's my home number.

3 BY MR. CHERTOFF:

4 Q The next day, did you go into work?

5 A Yes.

6 Q Do you remember when you arrived?

7 A Shortly before 8:00.

8 Q Did you talk to anybody when you got in
9 concerning Vincent Foster's death?

10 A Sure. Talked to everyone. You walked in
11 the door, and you began talking to people about this.
12 Everybody was in a state of shock.

13 Q Did you get involved in any discussion
14 concerning how his death, or the aftermath of his
15 death, ought to be handled, either in terms of what
16 should be said publicly or what should be done to
17 determine the cause of the death?

18 A No.

19 Q Was there someone who had responsibility
20 for that within the White House?

21 A Later that morning, it may have been at
22 the senior staff meeting at 8 o'clock, at the senior

1 staff meeting this was the topic of conversation.
2 The chief of staff convenes the meeting and confirmed
3 that this had happened. And my recollection was it
4 was a sort of stunned affair. The meeting was cut
5 short, because there was a great deal of concern
6 about what to do. There was concern about the
7 family, and so on and so forth.

8 Certainly, there were scheduling issues
9 relating to the President and the First Lady, and so
10 on. My recollection was, the morning after Vince's
11 death, there was not a lot of specific instruction,
12 delegation, about action items, because there was
13 still a kind of absorbing of what had happened.

14 Q Was there discussion of sealing or
15 securing Vince Foster's office?

16 A I don't recall anything like that. I do
17 not know.

18 Q Was Mr. Nussbaum at the senior staff
19 meeting?

20 A He would have almost certainly been there.
21 I can't recall exactly who was at the meeting.

22 Typically, all the assistants to the President were

1 there.

2 Q Was there discussion about investigators
3 or police coming to the White House to do some sort
4 of investigation?

5 A I don't recall that that morning.

6 Q During the course of that morning, did you
7 have occasion to learn that some trash from Vincent
8 Foster's office or suite had been stored in your
9 office?

10 A Oh, sure. In fact, when I arrived at my
11 office, it was sitting in the middle of my desk.

12 Q On your desk?

13 A Yes, on my desk.

14 Q Can you describe what you saw on your
15 desk?

16 A I came into my office. I went to my desk
17 to collect some papers for the senior staff meeting,
18 and there was a plastic bag sitting in the middle of
19 my desk on the top, tied with what appeared to be --
20 a few contents, not much. The bag was not a clear
21 plastic bag. I couldn't tell what was in the bag.
22 It was tied -- or it had a metal twist tie or

1 something, but it was tied. And, you know, it would
2 have perhaps been, you know, just a handful at that
3 point. But it was a larger bag, I remember, typical
4 of trash bags used or trash liners used in offices.

5 Q Was it the size of a trash liner used in
6 an individual office, or was it the size of a larger
7 kind of trash bag that was used to collect individual
8 trash bags?

9 A I don't recall the actual size. It was
10 sort of scrunched up.

11 Q And it didn't seem to be particularly
12 full?

13 A Oh, no. In fact, I remember that it was
14 not full at all. It had very little in it, because
15 it was sitting right there. It didn't take up my
16 whole desk, a whole big garbage bag.

17 Q What color was the bag?

18 A The bag itself?

19 Q Yes.

20 A It was sort of an opaque -- you know,
21 white opaque.

22 Q Is there anything else you can remember

1 about the bag?

2 A Not really, except that it clearly didn't
3 have much in it. It was not full.

4 Q Did you ask anybody how it got there?

5 A Soon after I arrived at my office, I
6 either received a call -- I was in a hurry to get to
7 the senior staff meeting. By that time, I believe
8 that I was the convener of the senior staff meeting,
9 and so I was in a hurry. Somebody came to the office
10 or called me, but I believe someone stuck their head
11 in the office and told me that we put this in your
12 office for safekeeping. It was from Vince's office.
13 We will retrieve it shortly. And I said, fine.

14 I took the bag off my desk, put it on the
15 credenza behind my desk to gather my papers, and went
16 to the senior staff meeting.

17 Q And when you came back, was the bag still
18 there?

19 A Yes. But almost immediately, someone came
20 in at that point and retrieved the bag.

21 Q Who was it?

22 A I don't remember.

1 Q Did you learn who put the bag there in the
2 first place?

3 A No.

4 Q No one ever told you that?

5 A Uh-uh. If they did, I don't remember it.

6 Q Is your office alarmed?

7 A Alarmed?

8 Q Yes. Is there an alarm system within your
9 office, so that when you leave at the end of the day
10 the alarm gets turned on?

11 A Not that I remember. The suite, the chief
12 of staff's suite, was routinely locked by the Secret
13 Service. The door to my office inside the suite was
14 routinely left open or closed, but not locked. I
15 don't recall ever locking my door, but I also don't
16 remember any alarm system.

17 Now, there may have been an alarm system
18 on the suite that the Secret Service had to engage
19 and disengage every day. But I'm not sure.

20 Q Did you hear anything about what happened
21 to the bag after it was removed from the office?

22 A My memory was that I was told that it was

30

1 going to be turned over to counsel's office.

2 Q Do you know who told you that?

3 A No, because the person who retrieved the
4 bag said, you know, we're taking this now to the
5 counsel's office.

6 Q Did you attend a meeting that morning in
7 which there was discussion about what Park Police
8 were going to be doing concerning the investigation
9 of Foster's death?

10 A I don't recall a meeting that I would have
11 attended about the Park Police investigation that
12 morning.

13 Q Were you aware that such a meeting took
14 place?

15 A I don't recollect that.

16 Q During the balance of that day, did you
17 have any further discussion with somebody concerning
18 Vincent Foster's office, or the investigation of
19 Vincent Foster's death?

20 A Any discussions?

21 Q Within the White House.

22 A About Vincent Foster's death?

1 Q No, about the investigation of his death,
2 or about the office, Vincent Foster's office.

3 A I don't remember any conversations about
4 the office whatsoever. I am sure there were
5 conversations about, is there going to be an
6 investigation, how will it occur, who's going to do
7 it -- random conversation, water cooler
8 conversations.

9 Q Other than water cooler conversations,
10 were you involved in any discussions on that
11 Wednesday on how an investigation ought to be
12 conducted, or how it ought to proceed?

13 A I don't remember any such conversations
14 that would have had, you know, form and focus in the
15 form of a meeting of some kind. I don't remember
16 specifically any conversations like that.

17 Q Directing your attention to the afternoon
18 of that Wednesday, July 21, did there come a time you
19 learned that Department of Justice officials had been
20 over at the White House to meet with Bernie Nussbaum?

21 A I believe that I remember sometime later
22 that day, or possibly early the next morning at the

1 senior staff meeting, being told that the Justice
2 Department had gotten involved in this investigation.

3 Q Who said that?

4 A My memory was that it was Bernie.

5 Q Was there in fact a senior staff meeting
6 the next Thursday morning?

7 A We have senior staff meetings every
8 morning.

9 Q In that senior staff meeting, did Bernie
10 Nussbaum describe or say anything about what the
11 Justice Department people wanted to do?

12 A I don't remember anything that specific.
13 My memory is that Bernie routinely updated the senior
14 staff to the effect that it's being handled. The
15 Justice Department is handling this. We're handling
16 the White House's liaison or relationship to the
17 Justice Department, and that was the extent of it. I
18 don't ever remember being given any briefing about
19 any details about the Justice Department's role in
20 the investigation at that point.

21 Q At the senior staff meeting on that
22 Thursday, was there discussion about Vincent Foster's

1 office?

2 A I don't recall.

3 Q During the course of that Wednesday or
4 Thursday morning, which would be the 21st and 22nd of
5 July, was there any discussion of whether Vincent
6 Foster's office was being secured?

7 A On which dates? Excuse me.

8 Q On Wednesday and Thursday morning. Was
9 there discussion about whether his office was
10 secured?

11 A My recollection was, not that day, but
12 certainly either that evening or the next day, it
13 became known that the office had been secured.

14 Q That is to say, it became known as of
15 Wednesday evening or Thursday morning.

16 MR. SIMON: Counsel, just so the record is
17 clear, do you know the day of the week? Because
18 you're using Wednesday.

19 THE WITNESS: Which day is Wednesday? The
20 day after Vince's death?

21 BY MR. CHERTOFF:

22 Q Just to be clear, it's Tuesday, July 20;

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1 Wednesday, July 21st; and Thursday, July 22nd.

2 A All right.

3 Q With that clarification, are you standing
4 by your testimony that by Wednesday evening or
5 Thursday morning, it became known that Vincent
6 Foster's office had been secured?

7 A That is my recollection.

8 Q Where were you on Thursday, July 22nd?
9 Were you at the White House?

10 A I think so.

11 Q Did you in fact go to Vincent Foster's
12 funeral?

13 A No, I did not.

14 Q On the 22nd, which is a Thursday, were you
15 involved at all in discussions about the manner in
16 which an inventory or search was to take place at
17 Vincent Foster's office?

18 A I remember Bernie. I remember being in a
19 conversation with Bernie, not a formal meeting -- a
20 conversation in which Bernie said, you know, we're
21 meeting with the investigators. We're going to go
22 through his office. We're cooperating fully. You

1 know, we're taking care of this.

2 Q Was that a casual comment to you, or was
3 he reporting it to you?

4 A No, he made a casual comment.

5 Q Is there anything else you can remember he
6 said to you in that conversation?

7 A No.

8 Q Do you remember what time of day on
9 Thursday it was?

10 A No.

11 Q Do you know whether, in fact, there came a
12 point in time that representatives of the Department
13 of Justice and the Park Police were physically
14 present in Vincent Foster's office?

15 A My recollection was that some day, on one
16 day, it was known that investigators were in Vince's
17 office. But I don't recall which day that was.

18 Q Did you hear a report after you learned
19 that they had been in the office about what had
20 transpired in there?

21 A No.

22 Q Are you familiar with a man by the name of

36

1 Tom Collier?

2 A Yes.

3 Q Who is Tom Collier?

4 A Tom Collier? When I was at the White
5 House -- I'm not sure where Tom is now; he could be
6 there -- he was the chief of staff to the Secretary
7 of the Interior.

8 Q Did you have a conversation with Tom
9 Collier the week following Vincent Foster's death
10 concerning the way in which Vincent Foster's office
11 was handled?

12 A I don't remember the conversation relating
13 to how Vincent Foster's office was handled. I
14 remember a conversation with Tom Collier in which he
15 assured me that the Park Service, under the direction
16 of the Department of Interior, was handling this
17 investigation by the book.

18 Q How did this conversation come about?

19 A I don't remember.

20 Q Do you remember whether he called you or
21 you called him?

22 A No, I don't.

1 Q Did he call you to complain about the fact
2 that the Park Police felt they were being shut out or
3 interfered with?

4 A I don't remember that. At some point,
5 there was speculation in the press about this, and I
6 do remember that we had a conversation. I don't
7 remember who called whom, but I remember Tom saying
8 very directly to me that, you know, we're handling
9 this by the book. It's as simple as that.

10 Q Do you remember whether Bill Burton was
11 present in this conversation?

12 A No, he was not.

13 Q Was this a conversation that you initiated
14 at the request of Mr. McLarty?

15 A I don't remember that.

16 Q In this conversation, did you indicate to
17 Mr. Collier that if there was a screwup in the
18 investigation, it was done by the Park Police?

19 A No; no.

20 Q Was this conversation triggered by the
21 discovery of the note, the torn-up note that was
22 later attributed to Vincent Foster?

1 A I have no idea if that's what would have
2 stimulated him to call me. My memory of this
3 conversation was that it was stimulated by or related
4 to accounts in the press, I think the Washington
5 Post, that officials of the Park Service were
6 complaining about lack of cooperation at the White
7 House. That's what I remember the nature -- go
8 ahead.

9 Q I'm sorry.

10 Why would you have been involved in a
11 conversation with Mr. Collier about that subject?

12 A Well, I would have routinely had
13 conversations with Tom Collier and other chiefs of
14 staff of agencies about any number of things. We
15 were working with Interior on lots of matters -- the
16 Northwest Forest Management Plan, in which we had a
17 lot of sensitive issues we were working through. I
18 mean, it may have been part of that conversation.

19 It could very well have been that he could
20 have called the chief of staff, and the chief of
21 staff wasn't there, and he got me. I don't know. I
22 do not remember initiating the conversation.

1 Q Do you remember how you learned that the
2 note attributed to Vincent Foster was actually found?

3 A Do I remember?

4 Q How you first learned about the note.

5 A I believe that on a certain day, some time
6 after Vince's death -- a few days, a week, something
7 like that -- it suddenly became known in the White
8 House that there was a note; a note had been found.
9 Not long after that, Bernie was in my office, on
10 other business actually, in which the topic came up.
11 And he indicated to me that, you know, there were
12 scraps of paper. I've turned them over, I think he
13 said, to the Justice Department. And that's how I
14 found out about it.

15 Q Was there any other discussion you had
16 with him, or anybody else, about the manner in which
17 the note was discovered?

18 A At that time, immediately?

19 Q Within the next day or so.

20 A The manner in which the note -- I don't
21 know whether -- I think, actually I think it was in
22 the same conversation with several people, in which

40

1 he said, you know, these pieces of paper fell out of
2 Vince's briefcase, you know. When I picked them up,
3 I didn't know what they were, and I've turned them
4 over now to the Justice Department.

5 Q Other than that, either that day or later,
6 were there other discussions about the note and how
7 it was found?

8 A Not that I remember. With Bernie?

9 Q Or with anybody else in the White House.

10 A Oh. Again, you know, water cooler talk;
11 because, it was obviously -- became well known. It
12 was a very hot item. But I don't remember anything
13 more specific than that.

14 Q Do you recall that during that week, that
15 there was a certain amount of press attention to the
16 fact that the note had been found all of a sudden?

17 A Sure.

18 Q Was the press attention viewed in the
19 White House as critical?

20 A Critical? Sure.

21 Q Did people in the White House with whom
22 you spoke perceive the press as questioning

1 circumstances under which the note had been found?

2 A Well, at first, just the existence of the
3 note achieved great notoriety. I mean, I think later
4 on there were questions about the note. Was there
5 delay, what were the circumstances -- you know. I
6 mean, the note was a big deal in every press medium
7 in the city and nationally. So you couldn't help but
8 be interested about it, talk about it, be curious
9 about it.

10 Q When the question began to arise, or the
11 question began to be discussed about the
12 circumstances under which the note had been found,
13 was there someone who was assigned the responsibility
14 to deal with the press aspect of that or the public
15 aspect of that within the White House?

16 A Bernie Nussbaum made it clear to everyone
17 that the counsel's office was responsible for
18 anything and everything associated with the
19 investigation into Vince Foster's death. Now, I took
20 that to mean anything and everything, including the
21 note.

22 Q Did that include press relations on the

1 issue of the note?

2 A I don't remember. I mean, press relations
3 would have been handled routinely out of our press
4 department by our press secretary, Dee Dee Myers, and
5 by our communications director, Mark Gearan, and to a
6 certain extent by David Gergen, who was counsellor to
7 the President and who was involved routinely in
8 matters associated with the press.

9 Q Were you involved in meetings with Mr.
10 Gergen or Ms. Myers or Mr. Gearan in which there was
11 discussion about how to deal with the press on the
12 issue of how the note had been found and how the
13 investigation had been conducted?

14 A Specifically on how to deal with the
15 press?

16 Q Yes.

17 A Not that I recall. I clearly may have
18 been in on meetings where the topic came up, but I
19 was not specifically associated with any meeting to
20 discuss that that I can remember.

21 Q Do you have any recollection of the
22 discussions concerning how the press ought to be

1 handled regarding the issue of the Park Police
2 investigation of the Foster death, and the discovery
3 of the Foster note?

4 MR. SIMON: Could you repeat the question?
5 I couldn't follow it.

6 (The reporter read the record as
7 requested.)

8 THE WITNESS: Any recollections of any
9 conversations on how the press ought to be handled?
10 It would not have been at all unusual for me to have
11 been part of any conversations about this, but I
12 don't have any recollection of any specific
13 conversations or discussions or planning.

14 BY MR. CHERTOFF:

15 Q Let me show you what's been marked as Z
16 935. It's a telephone slip dated 7/21, time 1:35, to
17 Evelyn/Maggie from Roy Neel, with a message.

18 (Document handed to witness.)

19 BY MR. CHERTOFF:

20 Q Do you know whether that message slip had
21 anything to do with a meeting concerning Vincent
22 Foster's death?

1 A 7/22 meeting, Thursday meeting for Maggie,
2 Tuesday morning -- I don't know what this is. I
3 often met with Maggie about administrative matters.
4 I don't know what that would have been about.

5 Q After the note was found, and apart from
6 the conversation you related that Bernie Nussbaum had
7 with you concerning the fact that he was turning it
8 over to the Justice Department, did you have any
9 later conversations with Bernie Nussbaum regarding
10 how the Park Police handled the investigation into
11 Vincent Foster's death?

12 A My recollection is that Bernie routinely
13 assured senior staff especially at every opportunity
14 that the White House role in this was being handled
15 properly, that the counsel's office was in charge and
16 was handling this; and that, you know, issues
17 associated with this should be referred to the
18 counsel's office.

19 Q You don't remember any other specific
20 discussion beyond that?

21 A I don't remember any specific
22 conversations. What I'm saying is, I remember

1 numerous conversations in which the issue came up
2 about the investigation, and routinely having Bernie
3 assure any number of people -- certainly me -- that
4 the counsel's office was on top of this. They were
5 handling it. They were handling it in an appropriate
6 way.

7 Q Was Mr. McLarty involved in dealing with
8 the issue of the Foster death investigation?

9 A Well, as chief of staff, I can only assume
10 he would have been informed by Bernie about what
11 Bernie was doing. But I don't know of any delegation
12 of activities or any assumption of responsibilities
13 per se.

14 Q Was Maggie Williams involved?

15 A Not that I'm aware of.

16 MR. CHERTOFF: I have no more questions.

17 MR. BEN-VENISTE: Give us just a second.

18 (Discussion off the record.)

19 MR. BEN-VENISTE: I have no questions.

20 MR. CHERTOFF: Thanks a lot.
21
22

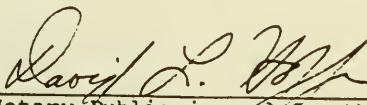
1 (Whereupon, at 4:00 o'clock p.m., the
2 taking of the instant deposition ceased.)
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6 -----
7 ROY M. NEEL
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, David L. Hoffman, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires 6/30/00

**DEPOSITION OF CAROLYN C. HUBER
IN RE: S. RES. 120**

FRIDAY, JUNE 30, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CAROLYN C. HUBER, called for examination pursuant to notice of deposition, at 9:50 a.m. in Room 116-A of the Hart Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

HENRY F. SCHUELKE III, Esq.
Janis, Schuelke & Wechsler
1728 Massachusetts Avenue, NW
Washington, DC 20036
On behalf of the Deponent.

ALSO PRESENT: VINCENZO A. DELEO
TIMOTHY P. MITCHELL

CONTENTS

WITNESS

EXAMINATION

Carolyn C. Huber

by Mr. Giuffra

EXHIBITS

Carolyn C. Huber

DEPOSITION NUMBER

IDENTIFIED

Huber Exhibit 1 18, 2029

Deposition Exhibits Z638 and Z639 33, 2030

P R O C E E D I N G S

MR. GIUFFRA: Ms. Baker, would you please swear the witness. Whereupon,

CAROLYN C. HUBER was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q Good morning, Ms. Huber.

A Hello.

Q My name is Robert Giuffra. I'm chief counsel to the Senate Banking Committee. To my right is Lance Cole, who is a Democratic special counsel, and Tim Mitchell, who works for the Minority. And we'll be joined by Vincenzo DeLeo with the Majority; he just went down to get some breakfast.

MR. SCHUELKE: For the record, I'm Henry F. Schuelke with Janis, Schuelke & Wechsler, and we are appearing on behalf of Mrs. Huber.

BY MR. GIUFFRA:

Q This is a deposition being conducted

4

pursuant to Senate Resolution 120, of which I have a copy, if either yourself or Mr. Schuelke want. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, the Arkansas Development Finance Authority and other related matters.

Now, in section 1.B.1 of Senate Resolution 120, the Senate has authorized an investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death." That will be the focus of your deposition. Do you understand?

MR. SCHUELKE: You should answer aloud.

THE WITNESS: Yes.

BY MR. GIUFFRA:

Q The court reporter sometimes --

A I know they can't hear that. Yes, sir.

1 Q Do you know how you were requested to
2 testify? Did someone contact you?

3 MR. SCHUELKE: You mean in addition to me?

4 THE WITNESS: Yes, my lawyer.

5 BY MR. GIUFFRA:

6 Q You were contacted by --

7 A Mr. Schuelke, yes.

8 Q Now, we're holding this deposition in
9 advance of public hearings that the Senate is likely
10 to hold sometime in the middle of July, and it's not
11 certain yet as to whether you will have to testify at
12 those hearings. But if you do, what we will try to
13 do is give you as much advance notice as possible so
14 you'll be able to plan your schedule.

15 Have you ever been deposed before?

16 A No.

17 Q The normal practice in a deposition -- and
18 we will be following that today -- is you'll be asked
19 a series of questions. You'll be testifying under
20 oath. If at any time during the deposition you don't
21 understand a question, please let me know, and I will
22 rephrase it.

1 There's no effort being made to trick or
2 mislead you, so if a question, for example, asks you
3 to agree or disagree with a statement, and you don't
4 agree or disagree -- you don't agree with the
5 statement, just say so, and say why you don't agree
6 with the statement.

7 If, for example, you're asked to speculate
8 about something, just let us know and say I'm
9 speculating about something if you don't know the
10 answer to a question. If at any point in time today
11 you need a break, please let us know, and we'll take
12 a break.

13 The way the procedure will work is I will
14 ask the first set of questions and Mr. Cole will ask
15 an additional set of questions.

16 Ms. Baker is the court reporter. She'll
17 prepare a record of the questions and answers, and
18 the deposition will be treated as something called
19 committee confidential, meaning that we won't
20 disclose your deposition until the public hearings.
21 And we would ask you to that extent not to disclose
22 what you talk about here today until that time.

1 You have a right to be represented by
2 counsel, and you're ably represented by Mr. Schuelke
3 here today.

4 Objections to the forms of questions may be
5 stated for the record. Counsel can also object on
6 grounds of privilege or relevance, and there's a
7 procedure specified in the resolution specifying how
8 the conduct of depositions will go forward in that
9 instance.

10 You'll have an opportunity to review the
11 transcript of the deposition after it's over, and
12 you'll be able to make corrections to the extent
13 those corrections reflect errors in how the court
14 reporter has recorded everything. But Ms. Baker is
15 very precise, so that may not be much of a problem.

16 Do you have any questions?

17 A No.

18 Q Could you please state your name for the
19 record?

20 A Carolyn Huber.

21 Q And the spelling of your last name?

22 A H-u-b-e-r.

1
2
3 Q And your present business address?

4 A The White House.

5 Q And your present position?

6 A I'm special assistant to the President,
7 director of personal correspondence.

8 Q And have you held that position since the
9 beginning of the Clinton Administration?

10 A Yes, February 1, 1993.

11 Q What are your responsibilities in that
12 position?

13 A We get all the personal mail -- we have a
14 special zip code that the first family uses, and the
15 people that have that zip code come to the office,
16 and I open the mail and distribute it to the people
17 that do the actual answering of the letters.

18 Q Do you have a staff of people that work for
19 you?

20 A Yes.

21 Q About how many people?

22 A There are three people and we have three

1 volunteers, but they do not do them. Only one does
2 the letters.

3 Q Where are your offices physically located
4 within the White House complex?

5 A East wing, room 214.

6 Q And in your position as director of
7 personal correspondence, to whom do you report? Do
8 you report to more than one person?

9 A No, I don't. I go through, if I need
10 anything, through Nancy Hernich, because she's in the
11 President's office. I work very closely with her.

12 Q Could you spell her last name?

13 A H-e-r-n-i-c-h.

14 Q What is her position?

15 A She's a deputy something -- I don't
16 remember what title.

17 Q Deputy assistant to the President?

18 A Yes. She has an appointment. She came
19 from Arkansas, and I don't really know what her title
20 is.

21 MR. SCHUELKE: What you are is, you've
22 testified is special assistant to the President?

10

1 THE WITNESS: Yes.

2 BY MR. GIUFFRA:

3 Q Do you report to anyone else in this
4 capacity as director of personal correspondence?

5 A No.

6 Q Do you report to Maggie Williams in this
7 capacity?

8 A No.

9 Q Do you report to either the President or
10 the First Lady in a direct way?

11 A In a direct way, yes.

12 Q Could you describe how you report to the
13 President and the First Lady?

14 A The only way I really report to him is
15 through Nancy, type up memos if we get a letter or
16 visitors coming, they need to know about it, to send
17 them a memo. And the same way basically with
18 Mrs. Clinton. I send her a memo every day -- not
19 every day I don't send memos, but like if things, if
20 we get a letter from personal friends or something,
21 I'll send her a note about it; if we have overnight
22 guests coming to town, I'll send a memo to her.

1 Q Do your responsibilities include anything
2 other than handling the personal correspondence of
3 the President and the First Lady?

4 A Yes.

5 Q What are those responsibilities?

6 A One of my responsibilities is entertaining
7 the overnight House guests.

8 Q What precisely does it mean to entertain
9 the overnight House guests?

10 A Be like a hostess to them, if that's the
11 correct term.

12 Q Do you have any other responsibilities?

13 A Yes. I am the bookkeeper for the Clintons.

14 Q Could you describe for the record what your
15 responsibilities are as a bookkeeper for the
16 President and the First Lady?

17 A Balance their checkbook and pay their
18 bills.

19 Q Does anyone assist you in connection with
20 balancing their checkbook and paying their bills?

21 A No.

22 Q Do you have any role in the preparation of

12

1 the President and First Lady's income tax returns?

2 A I assemble papers to give to the
3 accountant. I get them together --

4 MR. SCHUELKE: Assemble?

5 THE WITNESS: Assemble, uh-huh.

6 BY MR. GIUFFRA:

7 Q Are you the custodian of the President and
8 Mrs. Clinton's financial records?

9 A Yes.

10 MR. SCHUELKE: It seems to me that you
11 might want to explore a little more carefully what
12 you mean by that. It strikes me as a conclusion that
13 I'm not so sure she's prepared to make, and based on
14 my own understanding of the situation, her answer was
15 simply factually incorrect.

16 MR. COLE: Whether she's custodian in a
17 technical legal sense or whether she's custodian in a
18 more general sense, we perhaps need to get into that.

19 MR. GIUFFRA: That's fine.

20 BY MR. GIUFFRA:

21 Q And Ms. Huber, I want to reiterate this.
22 If at any time you want to expand on your answers,

1 please do so. Basically all we want to do is get the
2 facts as accurately as we can. And this is a
3 somewhat artificial way to do it, but it's the best
4 we have.

5 What did you mean by -- when I asked you
6 are you the custodian of the President and First
7 Lady's financial records, and you said yes?

8 A Are you talking about their daily bills
9 that I pay?

10 Q Do you keep copies of, for example,
11 telephone bills?

12 A The bills that I pay I keep copies of
13 them. I have a file where it says "paid bills," and
14 I put it in there.

15 Q And you keep their checking and bank
16 account statements?

17 A Yes. I have a file that says the bank name
18 with the statement in it.

19 Q Just so we get a clearer sense, can you
20 think of any of the other files you maintain
21 regarding the finances of the President and First
22 Lady?

1 A That's basically all they have, except we
2 do have a file that says "blind trust," and we do get
3 copies from them I keep in the file.

4 Q That would be their investments and things
5 like stock and bonds?

6 A Yes.

7 Q Where would the records be maintained of
8 investments that the First Lady and the President had
9 before they came to Washington? Would you maintain
10 those records as well?

11 A Yes, I have.

12 Q What sort of records with regard to
13 personal finances of the President and First Lady
14 prior to their coming to Washington do you maintain?

15 MR. SCHUELKE: I'm sorry, once again.
16 Could you repeat it.

17 MR. GIUFFRA: Why don't you read the
18 question back.

19 (The reporter read the record as requested.)

20 BY MR. GIUFFRA:

21 Q Do you understand the question?

22 A I'm trying to -- it's basically just what I

1 told you. It's like their paid bills and their bank
2 statements.

3 Q Would you maintain the records for other
4 kinds of investments that the President and First
5 Lady would have had prior to their coming to
6 Washington?

7 A Yes. We have their investments like into
8 Schwab, that's what --

9 Q For example, their stock -- now, their
10 stock investments are held in a blind trust?

11 A Blind trust.

12 Q Prior to that?

13 A Yes, we had copies of what their stocks
14 were.

15 Q Do you maintain copies of their income tax
16 returns?

17 A Yes, they're in the file with those things.

18 Q And if the President and First Lady had
19 taken out loans prior to coming to Washington, would
20 you have copies of those loan agreements?

21 A Yes, they would be in there.

22 MR. SCHUELKE: Are you saying that any loan

16

1 agreements that they ever made you still have in your
2 possession?

3 THE WITNESS: No, not all loan agreements.

4 BY MR. GIUFFRA:

5 Q But some of them. That's a type of
6 document --

7 A That would be in there, but they didn't
8 have -- there was not anything that was maintained.

9 Q If the President and First Lady had
10 correspondence relating to their financial matters,
11 would you maintain copies of that correspondence?

12 A There are some.

13 Q Where do you maintain these documents?

14 A They're on the third floor in the
15 residence. We have a room that is an office room.

16 Q And you don't work out of this room?

17 A Sometimes I do.

18 Q About how large a room is this?

19 A It's at least this big. It's like a
20 bedroom.

21 Q About the size of a bedroom? Bedrooms come
22 in different sizes. I imagine at the White House

1 they're bigger than in my House.

2 A No, I don't think so.

3 MR. SCHUELKE: Can we go off the record for
4 a second.

5 (Discussion off the record.)

6 BY MR. GIUFFRA:

7 Q Ms. Huber, would this room be approximately
8 25 feet long and maybe 10 to 12 feet wide?

9 A I don't think it's quite 25 feet.

10 Q It may be 20 feet long?

11 A Maybe. I would say it's more like 18, 15
12 by 18.

13 Q 15 by 18?

14 A Uh-huh.

15 Q What is contained within this room?

16 A It has a bathroom, small bathroom over here
17 and then there's bookcases here and here is a closet
18 right here. It's a little tiny closet.

19 Q If I could ask you to -- we'll refer to
20 this as Huber Exhibit 1. Just draw what the room
21 looks like in the location of the --

22 A This is a hallway here. This is the room

18

1 here. It's on this side here, south side of the
2 building, so it goes over kind of like this. And
3 this is windows on this side. And here is the
4 bathroom. This is a bookcase right in here. There's
5 a little closet right here.

6 Q Are there any file cabinets within the
7 room?

8 A No.

9 Q Is there a desk in the room?

10 A Yes.

11 Q And where would the desk be located?

12 A Right here.

13 Q Is there anything else in the room?

14 A There's a table and a couch, and sofa over
15 here, table, chairs.

16 MR. SCHUELKE: Let's go off the record for
17 a second.

18 (Discussion off the record.)

19 (Huber Exhibit 1 identified.)

20 BY MR. GIUFFRA:

21 Q Ms. Huber, during the break, we've worked
22 on a schematic of this room. Could you describe for

1 the record how big the closet is in the room.
2 A It's probably 3 feet. It's probably 3
3 feet.
4 Q 3 feet by 3 feet?
5 A This way, and about -- yeah, it is. Or 2.
6 Q 2 or 3 feet deep?
7 A Yes.
8 Q Can you stand in the closet?
9 A Yeah, I can get in there.
10 Q Are there any cabinets in the closet?
11 A No.
12 Q What sort of items, clothes, books, files?
13 A There's six boxes in there, bankers boxes.
14 Q What are contained within those bankers
15 boxes?
16 A Checks, canceled checks; bank statements,
17 their financial -- different houses, like Stephens,
18 Inc.; and different investments. And that's it.
19 Q When you say Stephens, Inc. --
20 A It's an investment firm.
21 Q Are these investments in stocks and bonds?
22 A Yes, previously.

20

1 Q Was Stephens, Inc. the broker?
2 A Yes.
3 Q Does this closet -- can it be locked?
4 A Yes.
5 Q Who maintains the key to the lock?
6 A I just keep the key right in this little
7 desk here in the drawer in an envelope.
8 Q Does anyone else besides yourself know
9 where the key to the closet is?
10 A I'm sure they've seen it if they open the
11 drawer because it says "key to closet." I just don't
12 say anything to anybody about it.
13 Q If someone wanted to open this closet,
14 would they have to ask you for the key, or is it
15 common knowledge where the key is?
16 A I think they would ask me out of courtesy.
17 MR. SCHUELKE: Who's the "they" we're
18 talking about?
19 THE WITNESS: Yeah, I don't have anybody
20 that would ask me.
21 BY MR. GIUFFRA:
22 Q Are you the only person that ever opens

1 this closet?

2 A Yes. There's not any reason for anybody to
3 be in it but me.

4 Q This room, you've testified, is on the
5 third floor. Now, the first floor of the White House
6 is the part where the tours are, the state floor?

7 A State floor.

8 Q The second floor --

9 A The residence.

10 Q That's where the first family lives?

11 MR. SCHUELKE: The which floor?

12 MR. GIUFFRA: Second.

13 BY MR. GIUFFRA:

14 Q What is on the third floor besides this --

15 A Bedrooms and maids' quarters. I mean,
16 where they do the washing and ironing.

17 Q You can go from the second to first floor?

18 A Oh, yes, there's a stairway and an
19 elevator.

20 Q Do you know whether the President has ever
21 been to this office, as best you know?

22 A I do not know.

22

1 Q Do you know whether the First Lady has ever
2 been to this office?

3 A Well, I'm sure -- I know she's been in
4 there with me. We've been in there.

5 Q Does she regularly come into the office to
6 visit with you or come to your office, this office?

7 A I'm always there by myself, I would say 90
8 percent -- I would say 100 percent of the time I go
9 in there because they're filing and working.

10 Q When you say filing, are there files in the
11 room?

12 A No, just going in there to put up my
13 other -- my yearly records that I put in there.

14 Q I understand.

15 MR. SCHUELKE: In other words, to answer
16 the question which I think was pending, the First
17 Lady is occasionally there.

18 THE WITNESS: Yes.

19 BY MR. GIUFFRA:

20 Q In terms of where the financial records of
21 the President and First Lady are maintained, are they
22 maintained in this closet, for the most part? Are

1 they also maintained somewhere else?

2 A No, they're in there in the boxes.

3 Q That's the only place in the White House
4 complex where they would be maintained?

5 A Uh-huh.

6 Q Prior to becoming the director of personal
7 correspondence and assistant to the President, what
8 was your position?

9 A I was the office administrator at the Rose
10 Law Firm.

11 Q And for how long did you hold that
12 position?

13 A 12 years.

14 Q And prior to becoming the office
15 administrator of the Rose Law Firm?

16 A I was at the Arkansas governor's mansion
17 for two years.

18 Q Was Governor Clinton governor at that time?

19 A Yes.

20 Q What were the years?

21 A '79 and '80.

22 Q That would have been his first term?

1 A Yes.

2 Q Am I correct you went directly to the Rose
3 Law Firm at that point?

4 A Yes.

5 Q What was your position in the governor's
6 mansion?

7 A I was the mansion administrator.

8 Q And what were your responsibilities as a
9 mansion administrator?

10 A You know, seeing that everything was
11 going -- like you're running an office, running a
12 house, a mansion.

13 Q And prior to becoming the mansion
14 administrator at the Rose Law Firm, what position did
15 you hold?

16 A Before I was at the mansion?

17 Q Yes.

18 A I was at the Rose Law Firm.

19 Q And what was your position there?

20 A I was secretary to two attorneys.

21 Q To two attorneys?

22 A Yes.

1 Q Who were the attorneys?
2 A Herb Rule and Allen Bird.
3 Q Is that R-u-l-e?
4 A Yes.
5 Q And Allen Bird, B-i-r-d?
6 A Yes.
7 Q For how long were you a secretary at the
8 Rose Law Firm?
9 A I came to the Rose Law Firm in April of
10 1976.
11 Q And when you were secretary at the Rose Law
12 Firm between '76 and '79, did you work with
13 Mrs. Clinton?
14 A I knew who she was, but other than just to
15 say hello or whatever, like the rest of the
16 attorneys.
17 Q When President Clinton became governor, how
18 did you become mansion administrator?
19 A Mrs. Clinton asked me to come over there.
20 Q Then when you were mansion administrator,
21 you would have worked closely with both the governor
22 and Mrs. Clinton?

1 A Yes.
2 Q More with Mrs. Clinton?
3 A Yes, because she was the lady of the House.
4 Q Then how did you become office
5 administrator of the Rose Law Firm?
6 A When I went back, they needed someone to be
7 the administrator, and Mr. Gioir asked me to come
8 back.
9 Q How do --
10 A G-i-o-i-r.
11 Q What were your responsibilities as the
12 office administrator?
13 A Well, I did all of the duties. I hired the
14 people as well as dismissed the people. I did not
15 hire attorneys, but I interviewed paralegals, all of
16 the other support staff, just on the day-to-day
17 operation of running the law firm, seeing that
18 everything was running smoothly.
19 Q That's a big job, having worked in a law
20 firm.
21 A Yes.
22 Q And as the office administrator, you would

1 have known -- you would have worked with
2 Mrs. Clinton?
3 A Yes, I mean, like the other lawyers.
4 Q And you would have worked with Vincent
5 Foster?
6 A Yes.
7 Q And you would have known Mr. Hubbell?
8 A Yes.
9 Q And you would have known Mr. Kennedy?
10 A Yes.
11 Q In terms of getting your present job, how
12 did you get your present job?
13 A Mrs. Clinton and the President asked me to
14 come to Washington, asked if I would be interested.
15 Q And you're familiar with the -- we've
16 already gone through a little bit of this, the layout
17 of the White House residence?
18 A Yes.
19 Q I'll ask about several people. Do you know
20 Ms. Maggie Williams?
21 A Yes.
22 Q How closely do you work with Ms. Maggie

1 Williams?
2 A Not very closely. I don't even see her
3 weekly.
4 Q Do you know a woman by the name of Evelyn
5 Lieberman?
6 A Yes.
7 Q What is her position?
8 A She's in the press office now, but I don't
9 know her. I only know her to speak to her.
10 Q Do you know someone by the name of Thomas
11 Castleton?
12 A No. I may have seen him. We have a lot of
13 people working at the White House.
14 Q I can imagine. We'll now just focus on the
15 subjects that are at issue here. When did you learn
16 of Mr. Foster's death?
17 A About 11:30 that night.
18 Q That would be on July 20th?
19 A Uh-huh.
20 Q Do you recall where you were?
21 A I was at home in bed.
22 Q Who contacted you?

1 A Bill Burton.

2 Q What is Mr. Burton's position?

3 A He was deputy chief of staff.

4 Q And what did Mr. Burton say?

5 A He just told me he had bad news, that they
6 had found Vince.

7 Q Did you speak to anyone later that night?

8 A Later on, Mrs. Clinton called me.

9 Q Do you recall approximately what time that
10 was?

11 A It was probably 12:30 our time. She was in
12 Arkansas.

13 Q Do you recall anything about that
14 conversation?

15 A All we talked about, she asked me if I had
16 any idea why Vince would commit suicide, and I
17 didn't, and we were both just very upset. We didn't
18 say anything else. After all, I had known him for 20
19 years, almost.

20 Q Did Mrs. Clinton ask you to do anything?

21 A No.

22 Q Did you go to the White House that evening?

30

1 A No.

2 Q Did anyone else call?

3 A No.

4 Q Let me apologize. I feel -- I want to
5 apologize just for having to ask these questions.

6 MR. SCHUELKE: No apology necessary.

7 BY MR. GIUFFRA:

8 Q It's my job. You seem like a very nice
9 woman, so I feel kind of --

10 A It's just kind of hard to talk about it.
11 That's okay.

12 Q I'm sorry to have to even raise the
13 subject.

14 The next morning you went to the White
15 House to work?

16 A Yes.

17 Q What I'm going to do is try to go through
18 the next several days, and again, let me apologize to
19 the extent I'm asking a lot of detail, but that's
20 what lawyers, unfortunately, do.

21 What do you recall about that first
22 morning? This would have been July 21st. I think it

1 was a Wednesday.

2 A All I recall is we talked to -- everybody
3 was so distraught and people -- like his wife and
4 friends were coming from Arkansas, and I helped
5 arrange for them come spend the night at the White
6 House.

7 Q This would be Mr. Foster's --

8 A It was friends.

9 Q Friends of the family were coming?

10 A Yes.

11 Q Do you recall on Wednesday speaking with
12 Ms. Williams?

13 A On what day?

14 Q On the 21st, which would be the Wednesday.

15 MR. SCHUELKE: The day after Vince Foster's
16 death.

17 THE WITNESS: No.

18 BY MR. GIUFFRA:

19 Q Do you recall speaking with the First Lady
20 on that day?

21 A No.

22 Q That would be the Wednesday?

32

1 A No.

2 Q Do you recall speaking with the President
3 at all?

4 A No.

5 Q Do you recall speaking with Mr. Watkins?

6 A Mr. Watkins?

7 Q David Watkins.

8 A No.

9 Q Do you know who Patsy Thomasson is?

10 A I know her, but I did not speak to her.

11 Q Do you know a man named Craig Livingstone?

12 A I know him to say hello to him.

13 Q But you don't recall him contacting you?

14 A No, I did not talk to him.

15 Q Do you recall a man named Bernie Nussbaum?

16 A I know who he is, but I've never talked to
17 him. I've not talked to him.

18 Q Do you have a pager?

19 A Yes, but I don't ever wear it.

20 MR. COLE: You have to respect that.

21 MR. GIUFFRA: You do. You've got to
22 respect that.

1 THE WITNESS: Right now it's under a bunch
2 of papers. I don't know exactly where it is. I
3 don't ever wear it. It was useless for them to give
4 it to me because I've never worn it.

5 BY MR. GIUFFRA:

6 Q I'm going to show you two pieces of paper,
7 which we're going to mark as something called
8 exhibits to the deposition, and they'll be marked as
9 Z638 and Z639.

10 (Deposition Exhibits Z638 and Z639
11 identified.)

12 BY MR. GIUFFRA:

13 Q What these are are documents that we
14 received from the White House. They're pager
15 records, and these are records of your -- it says
16 Carolyn Huber on the first page. The White House has
17 told us this is for your pager.

18 A I don't even know what my pager number is.

19 Q That may answer the question. Do you
20 recall Mr. Nussbaum trying to page you on the 21st?

21 A No. Like I say, I never wore it, so I
22 wouldn't know. I never even checked it.

1 Q Do you recall if Mr. Nussbaum tried to call
2 you by telephone on the 21st?

3 A No.

4 Q Do you recall whether anyone contacted you
5 about -- let me strike that question.

6 You work in the east wing?

7 A In the east wing.

8 Q And also in the residence?

9 A Yes.

10 Q Do you recall going to the west wing at all
11 on the 21st?

12 A Not -- I would only -- no, I don't. I go
13 to the west wing to eat lunch.

14 Q To the mess?

15 A Yes.

16 Q Have you ever been to the White House
17 counsel's office?

18 A Only when Mr. Foster was in there, when he
19 was alive.

20 Q Do you recall whether Mr. Foster was
21 someone who maintained a neat desk or was someone who
22 sort of had papers all over his desk?

1 A Mr. Foster was a very particular,
2 meticulous person. He was a perfectionist.

3 Q Again, let me just apologize. These are
4 just basically about his habits. Was he someone who
5 maintained very neat files, as best you remember?

6 A I don't know. I never looked in his files.

7 Q Just from your experience at the Rose Law
8 Firm, you wouldn't know?

9 A No, because I didn't look in lawyers'
10 files.

11 Q But in the times that you went and visited
12 his office, it always seemed like the papers were
13 very orderly?

14 A Yes, he had a nice office.

15 Q Let's turn to the next day, which would
16 be --

17 A Thursday?

18 Q -- Thursday, July 22nd. Do you recall
19 whether anyone contacted you to -- strike the
20 question.

21 Do you recall if the First Lady contacted
22 you on the 22nd?

1 A I don't know. I don't remember.

2 Q Do you recall if Ms. Williams contacted
3 you?

4 A That was on Thursday? Yes, I did talk to
5 Ms. Williams.

6 Q Do you recall approximately what time on
7 Thursday Ms. Williams would have called you?

8 A In the afternoon.

9 Q Do you recall if it was 2:00, 3:00, 4:00?

10 A It was late afternoon. I do not know
11 exactly what time.

12 Q Say between 4:00, 5:00, 6:00?

13 A I would say maybe 4:00 to 6:00.

14 Q What did Ms. Williams say to you?

15 A She called to ask me if -- she had a box
16 that Mrs. Clinton had told her -- I do not know where
17 the box came from. I don't know anything about
18 that. She had a box they wanted to store, and
19 Mrs. Clinton told her to call me because I would tell
20 her up on the third floor where we could put it in my
21 office on the third floor.

22 Q Do you recall any more about the

1 conversation?

2 A That was it.

3 Q Did she say anything more about what
4 Mrs. Clinton said?

5 A No.

6 Q Did she say anything more about the box?

7 A No.

8 Q Did she say where the box was from?

9 A No.

10 Q What happened next?

11 A She and a young man brought it over, met me
12 at the elevator on the ground floor. The young man
13 was carrying the box.

14 Q You can go from the west wing to the
15 residence?

16 A Yes.

17 Q And you have to go along that colonnade
18 area on the outside?

19 A Yes.

20 Q So they would have walked along the
21 colonnade to one of the elevators --

22 A Met me at the elevator.

1 Q Met you in the elevator. Do you remember
2 about how big the box was?

3 A Kind of like a banker's box. Do you know
4 what a banker's box is?

5 Q About 2 feet by 1-1/2?

6 A Yes.

7 Q Was it a long banker's box?

8 A No, I would say it's about that big.

9 Q About 3 feet?

10 A Not quite 3 feet.

11 Q 2-1/2 feet?

12 A Yeah.

13 Q About how tall was the box?

14 A Like that (indicating).

15 Q About 18 inches, 19 inches, 20 inches?

16 A I'm trying to decide -- they always come
17 in, but I can't remember when I used to order them.
18 Like that (indicating).

19 MR. COLE: As I recall, bankers boxes come
20 in two sizes, this size and a much larger size.

21 THE WITNESS: We had the shorter kind. At
22 the Rose firm we had two different kinds. We had

1 some like this and some were like this (indicating).

2 BY MR. GIUFFRA:

3 Q This is the kind that one person could
4 carry pretty reasonably?

5 A Yes.

6 Q Do you remember what the man looked like?

7 A No, I don't.

8 Q Do you remember if he had dark hair, tall,
9 short?

10 A No.

11 Q Did Ms. Williams say anything more to you?

12 A No. She just brought the box, and we took
13 it up and put it in the closet. I did open the door,
14 unlock the door.

15 Q And then they left?

16 A We all left.

17 Q She didn't say why the box had to be put in
18 that closet?

19 A No.

20 Q Now, Mr. Foster's funeral was when?

21 A On Friday.

22 Q You would have gone to the funeral?

1 A Yes. I left on the Air Force 1 with the
2 rest of the people that went.

3 Q With regard to that box that was in the
4 closet, did there ever come a time when anyone looked
5 at the box?

6 A I do not know.

7 Q Is the box still in the closet?

8 A No.

9 Q Do you know whether Mrs. Clinton ever
10 looked at the box?

11 A No.

12 Q Do you know whether the President ever
13 looked at the box?

14 A No.

15 Q Would the President and Mrs. Clinton know
16 where the key to the closet would be?

17 A I'm sure anybody that opened the drawer
18 would know.

19 Q So it's no secret as to how to get in?

20 A No.

21 Q Did there ever come a time when someone
22 came to pick up the box?

1 A I don't know.
2 Q Is the box --
3 MR. SCHUELKE: What do you know?
4 THE WITNESS: All I know is the box is not
5 there. That's all I know.
6 MR. SCHUELKE: Did there come a time when
7 you noticed that it wasn't there?
8 THE WITNESS: Yes.
9 MR. SCHUELKE: Approximately when was
10 that?
11 THE WITNESS: I don't remember.
12 BY MR. GIUFFRA:
13 Q Would it have been in 1993 or 1994?
14 A No, it was '93.
15 Q You had the boxes that were already in the
16 closet?
17 A Yes, I set it right on top of them.
18 Q Was it the same kind of box?
19 A Yes.
20 Q So the boxes all pretty much look the same?
21 A Yes.
22 Q Are the other boxes labeled?

1 A Yes.
2 Q Do you recall if this box was labeled?
3 A No.
4 Q And you never looked inside the box?
5 A No.
6 Q When you discovered that the box was no
7 longer in the closet, do you recall what you did?
8 A Nothing.
9 Q Have you ever said anything to anyone
10 about --
11 A No.
12 MR. SCHUELKE: Let's go off the record for
13 a second.
14 (Discussion off the record.)
15 BY MR. GIUFFRA:
16 Q In your time at the White House, has
17 Ms. Williams ever asked you to put a box in that
18 closet?
19 A Only one time.
20 Q Did you ever say anything to the First Lady
21 about the box that was in the closet?
22 A No.

1 Q So Ms. Williams said the First Lady wanted
2 to put the box in the closet, you put the box in the
3 closet, and that's all you know?

4 A That's all I know.

5 MR. SCHUELKE: I think that
6 mischaracterizes her testimony. I don't think the
7 testimony was that Maggie Williams said the First
8 Lady asked her to put the box in the closet. I think
9 her testimony was that Maggie said the First Lady had
10 asked her to find a place to store the box.

11 THE WITNESS: Right.

12 BY MR. GIUFFRA:

13 Q That would be your testimony?

14 A Yes.

15 Q And you made the decision to put it in that
16 closet?

17 A Yes.

18 Q But that would ordinarily be the place --

19 A Where I store things.

20 Q Store financial records?

21 A Yes, but I do not know what was in the box.

22 Q Have you ever been interviewed by an FBI

1 agent about these events?

2 A Yes.

3 Q Do you recall when that was?

4 MR. SCHUELKE: Off the record a second.

5 (Discussion off the record.)

6 BY MR. GIUFFRA:

7 Q Do you think it was sometime last year?

8 A Yes, last summer.

9 Q Was it only on one occasion?

10 A Yes.

11 Q Did you ever testify in a grand jury?

12 A Yes.

13 Q Do you recall when that was?

14 A That was this year -- wait a minute.

15 MR. SCHUELKE: That was February of this
16 year.

17 THE WITNESS: February. It was this year.

18 BY MR. GIUFFRA:

19 Q Let me just ask one question, and I just
20 want to ask Mr. DeLeo a question, and I think I'll be
21 done.

22 Have you had any other involvement -- have

1 you had any involvement that you can recall with
2 regard to any papers that were in Mr. Foster's
3 office?

4 A No, I have not.

5 (Pause.)

6 Q Just a few more questions. When you spoke
7 to Mrs. Clinton on the night of Mr. Foster's death,
8 she was in Arkansas?

9 A Yes.

10 Q Do you recall where precisely she was in
11 Arkansas?

12 A She was at her mother's.

13 Q Do you know a woman named Capricia? Is
14 that a woman that works in the governor's mansion in
15 Arkansas?

16 MR. SCHUELKE: That's her first name?

17 MR. GIUFFRA: I think so.

18 THE WITNESS: No, I don't even know anybody
19 that works in the governor's mansion right now.

20 BY MR. GIUFFRA:

21 Q Do you know an Ann Stock?

22 A She's the social director. I just know her

1 when I see her.

2 Q Do you know a woman named Susan Thomases?

3 A Just when I see her.

4 MR. SCHUELKE:

5 BY MR. GIUFFRA:

6 Q It's Thomases with an e-s?

7 A T-h-o-m-a-s-e-s.

8 Q Did you store personal financial records
9 for governor and Mrs. Clinton at the Rose Law Firm?

10 A No, they were at the governor's mansion.

11 Q Have you ever stored any files related to
12 Whitewater Development Corporation?

13 A No.

14 MR. COLE: I just want to make sure we stay
15 within the scope, but that's within scope. I think
16 you're trying to do that.

17 MR. GIUFFRA: I don't have any other
18 questions, and I really want to thank you so much for
19 coming here.

20 MR. COLE: Ms. Huber, I'm Lance Cole and
21 I'm one of the Democratic counsel to the committee.
22 I don't have any further questions for you today. We

1 thank you very much for coming and I think perhaps
2 with that, we can go off the record unless you have
3 something more.

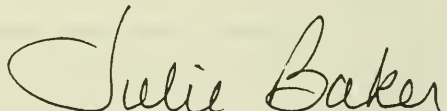
4 MR. GIUFFRA: No.

5 (Whereupon, at 10:45 a.m., the deposition

6 was concluded.)

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8 -----
9 CAROLYN C. HUBER
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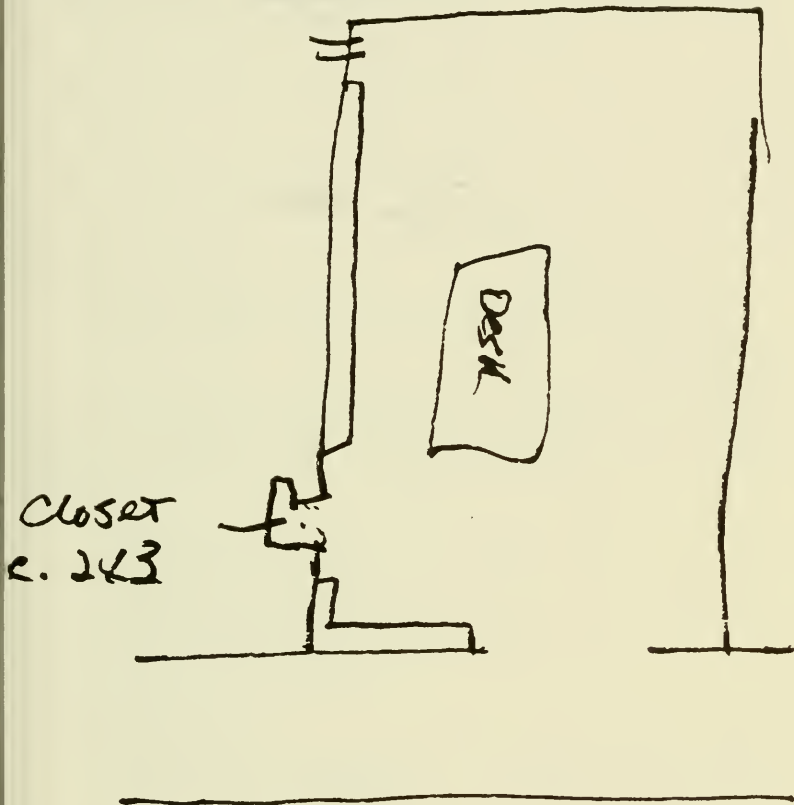
I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

South



PENGAD-Bayonne, N. J.

DEPOSITION
EXHIBIT1
Huber

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**DEPOSITION OF PETER W. MARKLAND
IN RE: S. RES. 120**

VOLUME II

FRIDAY, JUNE 30, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of PETER W. MARKLAND, called for further
examination pursuant to agreement by counsel, at 2:15 p.m. in
Room 534 of the Dirksen Senate Office Building, before JANE W.
BEACH, Court Reporter, when were present:

ROBERT J. GIUFFRA, JR., Esq.

Majority Chief Counsel

RICHARD BEN-VENISTE, Esq.

Minority Special Counsel

GLENN F. IVEY, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

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P R O C E E D I N G S

(2:15 p.m.)

Whereupon,

PETER W. MARKLAND

a witness being deposed June 28, 1995, at the time of recess, resumed the stand and, having previously been duly sworn, was examined further and testified as follows:

EXAMINATION -- Continued

BY MR. BEN-VENISTE: (Resuming)

Q Sergeant Markland, you are aware that you are still under oath?

A Yes.

Q I take it you have not discussed this matter with anyone since the conclusion of your deposition on Wednesday?

A No, I have not, sir.

Q I think I had asked you about a diary and whether the finding of the diary and the review of a diary would be useful, in your view, in connection with the determination in a more definitive way?

A Yes.

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Q As to whether this was a suicide. Do you recall that?

A I stated I would have been very interested in viewing one, yes.

Q And as I recall, you did not have any reason to believe that the Park Police had, in fact, reviewed a diary?

A I remember the question as being, at the White House, whether or not I knew there was a diary.

Q Did you understand that a diary had been reviewed elsewhere?

A Are you talking about what other -- I know some other detectives looked at personal papers.

Q Because it wasn't clear from the record and I did want to clarify with you your understanding that, in fact, a diary maintained by Mr. Foster had, in fact, been reviewed by investigators from the Park Police.

A Lieutenant Cassidy and Investigator Rolla went over to the attorneys at a later date.

Q Still in July?

A It would have had to have been, yes.

1 Q The record was not clear about that, and I
2 would make reference to Investigator Rolla's report,
3 which has been marked as Exhibit 44. His report
4 reflects a visit on July 28 to the offices of -- it
5 should be Swidler & Berlin. It is misspelled here.

6 In the course of that, there was a review
7 of materials. In connection with that, you
8 understood that the diary was, in fact, reviewed?

9 A Among other things, yeah.

10 Q Okay. I just wanted to get that clear.

11 I think there was some question about when
12 the FBI actually arrived on the 21st of July, because
13 you had keyed, in part, your very brief conversation
14 with Mr. Livingstone to a point when the FBI was
15 already there. I wanted to give you the benefit of
16 our information with respect to when the FBI first
17 arrived on the 21st.

18 Do you remember that sequence?

19 A I do. I am not -- I am not certain when the
20 FBI arrived. I know that they were not at the White
21 House when Captain Hume was making the calls to
22 Justice, and that was later that afternoon of the

1 21st.

2 The best I can recall, though, I thought
3 they were there in the morning of the 21st.

4 Q Right.

5 You had indicated that the FBI, you had in
6 your mind's eye that the FBI agents were there when
7 you privately questioned Livingstone for a couple of
8 minutes?

9 A In the area I thought they were. The best
10 I can recall, I thought they were.

11 Q Right.

12 I just wanted to share with you the fact
13 that our information, and I refer to FBI Exhibit 76
14 et seq., reflects that the FBI agents reported to the
15 White House at some point that at 12:30 p.m. or
16 thereafter on the 21st.

17 A 21st. Okay.

18 Q Does that tend to refresh your
19 recollection?

20 A Yes. I don't have any written record of
21 when they arrived. I would not disagree with that.

22 Q As a matter of fairness, I wanted to

1 present that to you for your review.

2 I think you mentioned, in that response to
3 Mr. Giuffra's questions on Wednesday, that there was
4 one occasion when the FBI exercised its prerogative
5 to take over as a lead agency in an investigation you
6 were working on?

7 A No. I referred to the murder case from
8 Maryland where they could have, I believe we were
9 talking about why and if they could have taken over a
10 case because of the jurisdiction of Fort Marcy, and I
11 used the example of the FBI following up on the
12 murder case from the Pautuxent Research Center in
13 Maryland. They could have taken that over also.

14 Q But they did not exercise their
15 prerogative?

16 A No.

17 Q That clarifies the matter for me.

18 In connection with your being called into
19 the Foster investigation on the 21st, do you recall
20 whether that day or at any point early after your
21 first knowledge of your own involvement in the
22 investigation, that it was discussed whether the FBI

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1 would exercise its prerogative to take over the lead
2 role in the Foster suicide investigation?

3 A I don't have knowledge of any discussion,
4 no.

5 Q Was it something that was on your mind or
6 in the back of your mind that at any point the FBI
7 might say, "Well, we're going to take over"?

8 A There is always -- that -- that would always
9 be in the back of my mind the FBI is there in a case
10 such as that. They, the phraseology they use is that
11 they're there to help us if we need them. But that's
12 what I am thinking of.

13 Q So any conversations that were had about
14 the possibility the FBI might take the lead in the
15 investigation were not in your presence?

16 A No.

17 Q And in terms of your own conversations
18 among fellow Park Police officers, you do not recall
19 any such speculation or conversations?

20 A I never made comments about that.

21 Q Now, finally, I wanted to share with you
22 some information that we had touched upon last time

1 with regard to the Park Police manual, as it regards
2 suicide investigations.

3 For purposes of convenience, we have bound
4 in a volume of the hearings before the Committee on
5 Banking, Housing and urban Affairs of the United
6 States Senate in volume 1 at page 1335 et seq.

7 Actually, it begins at page 1322, Mr. Ivey
8 points out to me, but I would call your attention,
9 for purposes of saving time, to 1335 through 1338,
10 where suicide investigations are discussed.

11 I would like you, if you would, since you
12 have indicated you have not yet had an opportunity to
13 review that manual, to take a look at page 1338.

14 (Documents placed before the witness.)

15 Have you had a chance to look at it?

16 A Yes, sir.

17 Q In terms of what the routine is, the
18 official by-the-book instructions to Park Police
19 investigative officers with respect to suicides,
20 could you read what it says about the place of
21 employment of the deceased?

22 A It states, "For complete and comprehensive

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1 investigation, an investigator shall visit the place
2 of employment of the deceased. It may be necessary
3 to interview friends and coworkers to determine
4 unusual behavior or mood changes of the victim. When
5 conducting interviews at the place of employment, the
6 investigator shall organize the onsite activities
7 with the supervisor at that location. While talking
8 with the supervisor, a request shall be made to
9 examine the victim's work area. This should be done
10 in a dignified and unobtrusive manner."

11 Q Would it be fair to say that that
12 paragraph, and feel free to look at this material at
13 your convenience and supplement with anything you
14 might want to add, but would it be fair to say that
15 the paragraph you have read describes the appropriate
16 procedure in a routine investigation?

17 A Yes.

18 Q Now, is it fair to say, in summarizing
19 what occurred over the day on the 21st of July 1993
20 and going into the 22nd and 23rd, that you felt that
21 things had gone on the wrong foot right from the very
22 beginning as far as cooperation of the White House

1 with you in particular?

2 (Pause.)

3 Let me withdraw that question and ask a
4 more simple one.

5 Is it fair to say that there were a number
6 of things on the 21st of July that occurred that were
7 upsetting to you in the context of your expectations
8 of the way you would be able to conduct your
9 investigation?

10 A Yes. I expected a more cooperative
11 atmosphere when we arrived.

12 Q Okay. I think that the first thing that
13 you mentioned that upset you was when you saw Chief
14 Langston carrying copies of Park Police reports while
15 he was in the White House. Do you recall that
16 testimony?

17 A Yes, I do.

18 Q You made the assumption that he had shown
19 those reports to persons outside of the Park Police
20 at the White House and that that was upsetting to
21 you?

22 A I believed there was a strong possibility.

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1 I don't know if he had nor not.

2 But, yes, it did bother me.

3 Q That is my next question, is that you
4 really didn't know at that point whether or not Chief
5 Langston had actually shown the reports to anybody or
6 whether he was using those reports for his own
7 education and familiarity with the investigation?

8 A Correct. I didn't know.

9 Q You knew that he was at the location of
10 the White House, obviously you saw him there, and
11 that he had what you believed to be these reports in
12 his possession, and you made the logical jump that he
13 had possibly shown those reports to others outside of
14 the Park Police, and that was upsetting to you?

15 A I believe there is a strong possibility
16 that he may have, and it did upset me.

17 Q Did you know or later learn that the chief
18 and Major Hines had briefed the White House or
19 persons from the White House about what they had
20 discovered in terms of Mr. Foster's death that
21 morning?

22 A No. I got no information from the chief's

1 office.

2 Q As you sit here now with the benefit of
3 some hindsight, do you regard it as inappropriate for
4 Park Police officials at an appropriate level to
5 brief the President's staff when one of his top
6 advisers is found under circumstances indicating a
7 sudden death?

8 A I believe it would be appropriate, but it
9 would be just as appropriate to coordinate that kind
10 of activity with the investigative branch of the
11 United States Park Police.

12 Q But when you say coordinate, you mean the
13 chief ought to get permission?

14 A Not permission. There should not be any
15 actions taken by the members of the United States
16 Park Police, including the chief, while there is an
17 investigation being pursued by the criminal
18 investigations branch.

19 Q And that is because you are or were
20 concerned that he might reveal information that would
21 somehow compromise the investigation?

22 A In any investigation, it is important the

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1 investigators know what information is being
2 dispersed and what is not.

3 Q So, you have no fault with anything that
4 the White House did or the White House staff did in
5 that connection; rather, your concern was whether the
6 chief of the Park Police might have overstepped the
7 appropriate bounds in what he disclosed or in not
8 revealing to you and other criminal investigators
9 what he was going to do in advance of his having done
10 so?

11 MR. GIUFFRA: Would you read that question
12 back?

13 MR. BEN-VENISTE: Yes. It's two parts.

14 THE REPORTER: "So, you have no fault with
15 anything that the White House did or the White House
16 staff did in that connection; rather, your concern
17 was whether the chief of the Park Police might have
18 overstepped the appropriate bounds in what he
19 disclosed or in not revealing to you and other
20 criminal investigators what he was going to do in
21 advance of his having done so?"

22 MR. BEN-VENISTE: Let me break that into

1 three parts.

2 BY MR. BEN-VENISTE: (Resuming)

3 Q First of all, you weren't concerned from
4 the standpoint of criticism of the White House
5 personnel in receiving the briefing information?

6 A NO.

7 Q Okay.

8 Now, you were concerned that Chief
9 Langston did not check with you and your colleagues
10 before he briefed the White House personnel. Is that
11 correct?

12 A I was concerned neither myself nor Captain
13 Hume had any knowledge of the Chief and Major, that
14 they would be there already at the White House when
15 we got there.

16 Q Okay.

17 Were you also concerned or upset that
18 Chief Langston might have revealed information that
19 you would not have thought it appropriate for him to
20 reveal?

21 A It was a major concern of mine.

22 Q Okay.

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1 But those two things that concerned and
2 upset you are in no way attributable to the White
3 House; this is an internal Park Police matter that
4 upset you at the outset of your arrival to the White
5 House on the 21st?

6 A Yes.

7 Q Okay.

8 Now, the next thing that upset you was the
9 fact that you got parked in the lobby when you
10 thought you ought to be upstairs getting down to the
11 business of interviewing witnesses and reviewing the
12 workplace of Mr. Foster?

13 A That or at least have been given some
14 information, concrete information on what we needed
15 to do and what we could expect, when we could expect
16 to accomplish any of those tasks.

17 Q Okay.

18 Now, in that regard, Sergeant Markland,
19 could you tell me who it was, to the best of your
20 knowledge, who made the arrangements whereby you were
21 supposed to come in and get access to the office that
22 morning?

1 A Initially, on the morning of the 21st?

2 Q Yes.

3 A Captain Hume.

4 Q So did Captain Hume tell you with whom he
5 had made these arrangements?

6 A No.

7 Q But you were under the impression that he
8 had cleared with somebody that you were going to be
9 there and you were going to get access to
10 Mr. Foster's workplace?

11 A When I reported for work that morning,
12 Captain Hume was already involved in this
13 investigation
14 and simply advised me that he and I would go to the
15 White House to, hopefully, interview coworkers and go
16 over the office.

17 I didn't question to the captain how he
18 made the arrangements or with whom?

19 Q Do you think now in hindsight that perhaps
20 those arrangements had not been made with individuals
21 at the White House?

22 A It is painfully clear that they were not

1 made with anybody at the White House.

2 Q So that the second thing that upset you
3 and made you angry that morning may not have been
4 properly laid at the door of White House personnel,
5 it may have been assumptions that were made by others
6 about when and how you would get access to the
7 workplace of Mr. Foster. Is that a fair statement?

8 (Pause.)

9 A I have to give a "yes" or "no" answer to
10 that question?

11 MR. GIUFFRA: Do you want him read the
12 question back?

13 THE WITNESS: No. I understood the
14 question.

15 Yes, there should have been some better
16 arrangements, I think, made on our end. We should
17 have gotten some very concrete procedures we had to
18 follow before we went over there.

19 At the same time, I think we could
20 have -- we may have very well have accomplished some of
21 our purpose without disrupting the White House while
22 we were there and at least being able to interview

1 some of the workers.

2 BY MR. BEN-VENISTE: (Resuming)

3 Q I understand that. Focusing on whether
4 there was, in your mind, an assumption made that
5 might not have been justified on the basis of looking
6 at this in hindsight, that arrangements had been made
7 and yet you were kept waiting.

8 A There was an assumption made by myself at
9 that time that arrangements had been made.

10 Q Okay.

11 At this point, you have reason to question
12 whether those arrangements were mad with personnel at
13 the White House?

14 A Yes.

15 Q Okay.

16 So those are two things that got you
17 cooking pretty well as you sat waiting for the
18 opportunity to do your job, as you understood it,
19 down in the White House lobby at the West Wing.
20 Fair?

21 A It bothered me. I wasn't ballistic or
22 anything.

1 Q But you indicated -- I tried to go over my
2 notes -- that there were a number of things that got
3 you upset and I think you said at one point, "Anyone
4 I was around knew I was mad about not being able to
5 get in the office." So you were not quietly
6 simmering there, you had expressed your views to
7 others around?

8 A Well, I will qualify that statement.

9 Q Okay.

10 A Others around when I said that were Secret
11 Service agents and Captain Hume.

12 Q Right. In other words, people who on the
13 job who you felt were your colleagues. You weren't
14 going out broadcasting this?

15 A No. No.

16 Q Okay.

17 And the first time that you met Mr.
18 Nussbaum was when?

19 A The morning we first arrived in the lobby
20 on the 21st.

21 Q Again, what was the contact with Mr.
22 Nussbaum at that point?

1 A Very brief. I found out initially who he
2 was, and I was basically it. After that, he left the
3 area.

4 Q Did he come down for the purpose of seeing
5 you, or he was just passing?

6 A When we arrived, he was in the hallway
7 with the Chief and the Major.

8 Q Okay.

9 Then what was the next time you saw him?

10 A I believe it was when we went back to the
11 West Wing lobby and he asked us what we were doing
12 there.

13 Q That was in the afternoon of the 21st?

14 A I believe so.

15 Q And I believe you indicated that you
16 thought his tone was demeaning?

17 A Yes.

18 Q Now, did you gather from his conversation
19 that it was his understanding that at this point
20 matters were to be coordinated by the Department of
21 Justice?

22 A Yes. And I was told by the Captain that

1 Mr. Nussbaum was going to contact Justice and there
2 was a basic misunderstanding there.

3 Q Okay.

4 So again, there was a failure to
5 communicate adequately, but looked at from
6 Mr. Nussbaum's standpoint, you were in the lobby of
7 the West Wing and his understanding was that you all
8 were supposed to be contacting the Justice Department
9 and perhaps he expressed some irritation that there
10 had been this disconnect in the communication. Is
11 that a fair reading from Mr. Nussbaum's point of view
12 what might have been going on?

13 A He was obviously irritated.

14 Q In looking at it in hindsight, if his
15 understanding was as he expressed it, then there had
16 been a delay between the time that Captain Hume would
17 have made the contact with the Justice Department?

18 A That would be true.

19 Q Okay.

20 The next time that you saw Mr. Nussbaum
21 was the 22nd?

22 A I believe so, yeah.

1 Q Or was it the 23rd? What do you recall?

2 A After phone calls were made, I believe we
3 left the White House proper and went back to the
4 office. I don't believe there was any more contact
5 on the 21st.

6 Q And what do you recall happening next in
7 terms of the White House, your connection with the
8 White House after the 21st?

9 A We were -- we came early and expected to
10 start the interviews.

11 Q On the 22nd?

12 A Yes.

13 Q And then how long were you waiting until
14 something else happened?

15 A I don't recall. There was a delay for
16 some reason.

17 Q And that was occasioned by the fact that
18 the Justice Department and the White House counsel's
19 office were discussing or even disagreeing about the
20 understanding for how the review of Mr. Foster's
21 office would proceed?

22 A Right.

1 Q Okay.

2 Again, through no fault of yours, you were
3 out there waiting again, essentially twiddling your
4 thumbs?

5 A We waited. Yeah.

6 MR. BEN-VENISTE: Off the record.

7 (Discussion off the record.)

8 MR. BEN-VENISTE: On the record.

9 BY MR. BEN-VENISTE: (Resuming)

10 Q When you were spending this unnecessary
11 time in the lobby of the West Wing, did you have
12 occasion to observe how far the desk which Officer
13 Abbott had been manning was from the exit doorway
14 onto West Executive Avenue?

15 A The best I can recall, maybe ten or twelve
16 feet.

17 Q And then there was an inner lobby after
18 those doors and then the outer doors?

19 A The vestibule there between the --

20 Q Yes.

21 A Yes.

22 Q Sort of an extended vestibule area.

1 A Right.

2 Q Okay.

3 Now, by the time -- strike that.

4 About what time do you recall finally
5 entering Mr. Foster's personal office?

6 A I don't recall the time.

7 Q Was it on the 22nd?

8 A Yes, it was. It's reflected in Captain
9 Hume's report.

10 Q Let me give you the opportunity to look at
11 that.

12 MR. BEN-VENISTE: If we can go off the
13 record, we can find that.

14 (Discussion off the record.)

15 MR. BEN-VENISTE: On the record.

16 BY MR. BEN-VENISTE: (Resuming)

17 Q Would it be fair to say it was some point
18 in the afternoon after you had conducted the
19 interviews of the secretaries who had worked in the
20 outer office?

21 A Yes. Yes.

22 Q Adjoining Mr. Foster's office?

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1 A I believe so.

2 Q So is it fair to say that the morning,
3 again from your standpoint, was wasted time?

4 A No. We had the opportunity to conduct the
5 interviews.

6 Q Okay.

7 So as compared with the day before, at
8 least you were getting something accomplished?

9 A Right.

10 Q Okay.

11 Now, it is clear, is it not, that putting
12 aside your objection to the fact that it was
13 Mr. Nussbaum rather than you and Captain Hume who was
14 looking at the documents in the first instance and
15 segregating them into categories, is it correct that
16 there was a category of documents that was possibly
17 of interest to the investigating authorities?

18 A Yes.

19 Q Okay.

20 So there was a category of documents of a
21 personal nature to go to Mr. or Mrs. Foster's
22 attorney. Correct?

1 A Correct.

2 Q There was a category of personal documents
3 of Mr. and Mrs. Clinton to go to the Clintons'
4 personal attorney. Do you recall that?

5 A I don't recall that that is how it was
6 categorized or if it was just strictly White House
7 business. I cannot recall it.

8 Q You wouldn't argue with or deny that there
9 was a category of personal documents to go relating
10 to the President and Mrs. Clinton, would you?

11 A I just -- I don't recall that category.

12 Q Okay.

13 And there was a category of documents
14 relating to official business, the vast bulk of what
15 was in that office, that would be obviously assigned
16 to other lawyers within the White House?

17 A Right. Yes.

18 Q Okay.

19 Before I get back into the question of the
20 review of the contents of Mr. Foster's office, there
21 was one thing that upset you on the morning of the
22 21st, and that was your assumption that Mr. Foster's

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1 office had been secured at some point the night
2 before and then learning that that had not occurred
3 until the morning of the 22nd or learning that that
4 had not occurred up to that point?

5 A That surprised me, yes.

6 Q Okay. Strike the part about the 22nd.

7 A Right. I was told that the office had
8 been secured since the prior evening.

9 Q Okay.

10 And again, you were operating under the
11 assumption that that was accurate information and
12 that in fact there had been an agreement to secure
13 the office of Mr. Foster the previous evening?

14 A Yes.

15 Q And again, if there had been some
16 miscommunication in connection with that, then your
17 assumption and the attendant unhappiness that you
18 experienced would have also been the product of a
19 misunderstanding?

20 A My aggravation was a product of a
21 misunderstanding.

22 Q Okay.

1 But it is clear that you learned as of the
2 time that Mr. Nussbaum was conducting the review of
3 documents in your presence on the 22nd that people
4 had been in Mr. Foster's office the night of the
5 suicide?

6 A Was that my understanding?

7 Q Yes.

8 A Yes.

9 Q And I believe you said you knew that but
10 you were not sure as to what the source of that
11 information was?

12 A I don't recall which. I know that at one
13 point Mr. Nussbaum mentioned the people. But he was
14 not my original source of that information.

15 Q You had the impression that he confirmed
16 information you already had at the time that he
17 mentioned it.

18 A I had the information prior to my
19 interview with him where he told me that. Yes.

20 Q Okay.

21 So this was Maggie Williams and Patsy
22 Thomasson?

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1 A Right.

2 Q Who had been in the office the night
3 before?

4 A And Mr. Nussbaum himself, yes.

5 Q And Mr. Nussbaum himself.

6 And you have the strong impression that
7 you knew that already as of the time Mr. Nussbaum
8 mentioned that in your conversation with him on the
9 22nd?

10 A I believe so.

11 Q Incidentally, with respect to the
12 information provided to you privately by Officer
13 Abbott, did you ever include that information in any
14 written report of yours?

15 A No.

16 Q Because I have not been able to find any
17 reference to it.

18 A No, I did not.

19 Q Is it correct that no one instructed you
20 or directed you to exclude that information from any
21 report?

22 A If someone instructed me to exclude that

1 information, I would have been sure and have done a
2 report.

3 Q You would have put it in capital letters
4 and underlined it, if I get the correct impression of
5 your character.

6 A The information never led anywhere, and I
7 didn't feel it warranted mention in a report.

8 Q Okay.

9 (Recess.)

10 MR. BEN-VENISTE: Would you read back
11 where we were?

12 (Whereupon, the court reporter read the
13 record as requested.)

14 BY MR. BEN-VENISTE: (Resuming)

15 Q Did you ever do anything with respect to
16 the information that had been provided to you by
17 Captain Hume on the morning of the 21st with respect
18 to phone numbers for Mr. Hamilton and Mr. Hubbell?

19 A That was -- those initial phone numbers,
20 that was just to contact, make the contact when the
21 autopsy had been completed and the body could be
22 released.

1 Q Did you do that, or did someone else from
2 the Park Police?

3 A I made the call. I made a notation in my
4 notes of who I notified.

5 Q So, you phoned each of those two parties
6 or someone in their offices to convey the
7 information?

8 A I phoned one of the office numbers and
9 made contact with someone. I noted the name in my
10 notes.

11 Q Did you know what the disposition of the
12 remains was, whether it was that Mr. Foster was
13 buried, whether his body was transported to Arkansas
14 or whether he was cremated?

15 A He was transported to Arkansas, to the
16 best of my knowledge.

17 Q Do you know at that point whether his body
18 or his remains were buried or whether he was
19 cremated?

20 A No.

21 Q To the best of your knowledge, there was
22 nothing further to do in that regard in terms of your

1 investigation?

2 A After the autopsy?

3 Q Right.

4 A No.

5 Q Did there come a time when you learned
6 that the issue of fingerprints was important from the
7 standpoint

8 of whether there was an effort to determine whether
9 there were latent fingerprints on the note?

10 A On the note?

11 Q On the note.

12 A Yes.

13 Q Okay.

14 No one made any investigative request on
15 you to follow up vis-a-vis Mr. Foster's remains?

16 A No.

17 Q Do you happen to know whether the report
18 of your investigation was at some point reclassified
19 as a suicide, whether that blank line that you had
20 referred to in the earlier part of your deposition
21 had been filled in as a suicide or whether it had
22 just been left blank?

1 A I don't recall it. More than likely, it
2 would just be left blank. Since there was a broad
3 title of death investigation, there would just be a
4 final report.

5 Q At the conclusion of the review of the
6 contents of Mr. Foster's office, do you recall if
7 Mr. Nussbaum indicated that he was going to disperse
8 the materials in accordance with the categories that
9 he had established?

10 A I don't recall any specific statement by
11 him, but it was my understanding that that was what
12 would be done, yes.

13 Q And at that point, I take it, you had no
14 objection to that?

15 A I felt any objection would have been
16 fruitless. I was unhappy about the whole situation,
17 but it was all being handled by the Justice
18 attorneys.

19 Q At that point it was out of your hands?

20 A Yes.

21 Q And you voiced no objection?

22 A No.

1 Q Now, with respect to the interviews of the
2 office personnel, is it correct that on an occasion
3 after either a brief recess or consultation with the
4 White House attorneys who were present, the
5 secretaries added additional information to questions
6 that had been asked previously?

7 A Well, there was, in at least the one case
8 I was involved in -- it's the only one I know -- after
9 they could not remember anything and had spoken to, I
10 believe it was, Mr. Newarth, she came back in and
11 added information, yes.

12 She made it clear that there was nothing
13 else she could possibly add.

14 Q Right.

15 Now, did the people in the office of the
16 secretaries seem to have been upset by the
17 development of Mr. Foster's death?

18 A Of course. Nothing -- not abnormally upset,
19 but, yes.

20 Q Emotional?

21 A As would in any office setting, yes.

22 Q Sure.

1 In terms of what occurred in your presence
2 when it was Mrs. Pond, was it, that you were
3 interviewing, or was it Ms. Gorham? I can't recall
4 which.

5 A Ms. Gorham. But I would really have to
6 check.

7 Q Mr. Foster's personal secretary?

8 A Right.

9 Q Okay. That would be Ms. Gorham.

10 After you had concluded your questions,
11 then Mr. Newarth asked you to wait for a moment and
12 took Ms. Gorham outside, conferred with her briefly,
13 and then she came back in and added additional
14 information.

15 A Right.

16 Q And could you interpret that in hindsight
17 as Mr. Newarth perhaps prompting Ms. Gorham with
18 respect to information that she for whatever reason
19 may not have remembered or did not provide to you so
20 that she would, in fact, give you additional
21 information?

22 (Pause.)

1 A It's possible. I don't -- I haven't changed
2 my opinion, though, even in hindsight, of how the
3 interviews went.

4 Q All right. You would have preferred to
5 have had the opportunity to interview these
6 individuals privately. You have made that clear.

7 A Of course.

8 Q And in this one incident, however, would
9 it not be a fair interpretation of the events that
10 occurred to say that as a result of Mr. Newarth
11 bringing something to Ms. Gorham's attention, you
12 learned more information than you had learned as of
13 the conclusion of your interview?

14 (Pause.)

15 A We did learn more information. But the
16 question remains: Why did he bring her out of the
17 room and then back in to elicit that information?

18 Q Well, you wouldn't rule out that that
19 perhaps was Mr. Newarth's own style in conferring
20 with a client or whatever; for whatever reasons he
21 did it privately perhaps not to embarrass her? We
22 haven't taken Mr. Newarth's deposition, but at this

1 point, at least in fairness to Mr. Newarth, I am
2 asking you whether from an objective standpoint it
3 would not be fair to say that as a result of his
4 intervention, you learned more information?

5 A We did learn more information.

6 Q Okay.

7 And with respect to Mr. Nussbaum, I think
8 the term was "bursting into the interview," and you
9 couldn't recall whether it was one you were
10 conducting or one which Captain Hume was conducting,
11 your sense was that the control over the process was
12 interrupted by his arrival?

13 A Yes.

14 Q And that you felt that it was
15 unprofessional or unhelpful that Mr. Nussbaum did
16 that?

17 A Yes.

18 Q From the standpoint of not knowing
19 Mr. Nussbaum's personality before this, that the idea
20 of someone in an agitated state entering a room, and
21 described as bursting in, may have been
22 Mr. Nussbaum's normal style on any day in terms of

1 someone who was not familiar with him in their
2 perception? That is the bursting in part. What he
3 said was -- strike that.

4 What he said was, when he came into the
5 room, "Is everything okay," in substance. Is that
6 right?

7 A I just fail to see how anybody with any
8 kind of law degree -- or would think it appropriate to
9 burst into an interview.

10 Q Okay. But for someone who is dealing with
11 his deputy having committed suicide and running
12 around doing a number of other things, would it not
13 be fair to conclude that may be he was asking whether
14 there was something that he could be of help with or
15 that he could help straighten out if it was not going
16 smoothly?

17 A Anything's possible. But for me to agree
18 with that would be more than fair, I think.

19 Q Okay. If you don't feel it's fair. But
20 it wasn't anything that he said or did in coming into
21 Captain Hume's interview briefly, it was rather the
22 fact of actually poking his head in and interrupting

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1 the process that you felt was inappropriate?

2 A Yes.

3 Q Okay.

4 Mr. Giuffra asked you some questions about
5 the question of the trash in the trash basket. Do
6 you recall that?

7 A I can't think of any question he didn't
8 ask me.

9 Q Well --

10 A I am sure you will.

11 Q We are attempting to be fair.

12 A Yes, sir.

13 Yes, we did speak, discuss trash from
14 Mr. Foster's office.

15 Q And do you recall the circumstances of how
16 that came up in the course of your meeting on the
17 22nd?

18 A In the search of the office?

19 Q Yes.

20 A Yes.

21 Q How?

22 A After the search of the office was

1 completed by Mr. Nussbaum and counsel, I asked about
2 the trash. I said, "Where's the trash?"

3 Q And had you heard by this point that the
4 trash from Mr. Foster's office had been retrieved?

5 A I am not sure of the initial brief
6 interview I had with Mr. Nussbaum, but I believe he
7 told me previously about it.

8 Q In other words, you feel that you were
9 remembering something that you had been told and that
10 hadn't been covered in the review of the contents of
11 the office?

12 A I would have asked for the trash anyway.

13 Q Okay. So you don't remember whether you
14 had been told about it before or whether this had
15 just occurred to you?

16 A I don't know what my mind set was at that
17 particular time. I would have asked for the trash.

18 Q All right. We will come back to that.
19 Let me see if I can find something to jog your
20 recollection on it.

21 (Pause.)

22 Did you have any reason to believe that

1 Mr. Foster maintained a burn bag in his office?

2 A I would have reason to believe that. It
3 wasn't in my mind at that particular time.

4 Q Okay.

5 Would you have reason to believe that
6 there was a burn bag in his office or there was a
7 burn bag available in the counsel's office?

8 I don't want to put words in your mouth.

9 A Well, because of my background, I know
10 that there are burn bags. Whether there would be
11 kept for the group of attorneys, I don't know.

12 Q Right.

13 A That really was not what I was thinking
14 about when I was thinking about trash.

15 Q Right. Is that because it would seem to
16 be somewhat illogical for someone to leave a note and
17 then put it in the burn bag?

18 A Or in regular trash.

19 Q For that matter. Right.

20 A Right.

21 Q But it would be even more illogical to
22 think about it as having gone into a burn bag. Would

1 that be fair to say?

2 A If I was in that position and I decided to
3 destroy a note that I had written and didn't want
4 somebody to see, I would put it in a burn bag.

5 Q Okay.

6 A It would be a logical thing for me. It's
7 just not only notes but other writings. I have just
8 searched hundreds of trash cans in my career.

9 Q But you weren't thinking burn bag that
10 day?

11 A Not at that time, no.

12 Q Okay.

13 A It just appeared out of place to me that
14 there was no trash.

15 Q That was when you were operating under the
16 theory that the office had been sealed, but once you
17 learned that it hadn't been sealed, there would be
18 nothing to prevent a normal trash collection.
19 Correct?

20 A Well, if there was no trash and that was
21 the explanation for it, it would just be another
22 indication of more -- how accessible that office was,

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1 yeah.

2 Q And then conversely, since you mentioned
3 the issue of trash and had learned that the trash had
4 been retrieved, this probably leads to the conclusion
5 that you had been told that the trash had been
6 retrieved at some point prior to the conclusion of
7 that meeting?

8 A I can't recall right now when that
9 interview with Mr. Nussbaum was.

10 Q But you did learn at some point that even
11 though the office had not been secured, the trash
12 from Mr. Foster's trash can in his office had been
13 retrieved?

14 A Yes.

15 Q Okay.

16 Was anyone from the Park Police denied
17 access to that trash?

18 A We were never able to physically look at
19 the trash ourselves.

20 Q Did you request the opportunity to look
21 through the trash?

22 A Looking through the trash went the same way

1 that looking through all the papers, office papers,
2 went.

3 Q All right. But Mr. Nussbaum was
4 segregating items and putting them in categories.

5 A Yes.

6 Q And one of the categories was things of
7 interest to the Park Police. Correct?

8 A Yes.

9 Q And you had the opportunity, I think, as
10 you have testified before, to voice your opinion
11 about whether something should be in the category of
12 items to reviewed by the Park Police?

13 A Right.

14 Q And so I am asking whether the trash was
15 one of those items which you indicated you thought
16 should be in the category of items for review by the
17 Park Police?

18 A I cannot recall if it went with that group
19 of items.

20 Q But you had the opportunity to so state?

21 A Yes.

22 Q Okay.

1 To the best of your knowledge, would take
2 issue with Chief Langston's statement that ultimately
3 the Park Police investigators were permitted to
4 review any documents that they wished to review?

5 MR. GIUFFRA: Do you know about the
6 statement?

7 THE WITNESS: No.

8 I wouldn't consider that a true statement.

9 BY MR. BEN-VENISTE: (Resuming)

10 Q What document or what specific documents
11 did you wish to review that ultimately, I don't say
12 on the 22nd, but ultimately you were not permitted to
13 review?

14 (Pause.)

15 A We were able to review whatever documents
16 either the chief counsel's office or the family's
17 attorneys decided we could review, which is obviously
18 not everything I wanted to review.

19 You're asking me what I wanted to review?

20 Q Putting aside your disagreement with the
21 procedure whereby you were not allowed to review the
22 documents in the first instance but that these

1 categories were then made upon Mr. Nussbaum's review
2 of the materials, were there any materials that you
3 indicated that the Park Police ought to be reviewed
4 during that process that you were denied access to?

5 A I have no way of knowing.

6 Q Okay.

7 Did anyone give you instructions prior to
8 sitting in on the meeting with Mr. Nussbaum about
9 what you could and could not say?

10 A No.

11 Q Is it correct that you did not bring up to
12 Mr. Nussbaum anything about the information regarding
13 Mr. Livingstone that either Mr. Abbott had imparted
14 or that or that Mr. Livingstone had provided you?

15 A I didn't bring that up to Mr. Nussbaum,
16 no.

17 Q Okay.

18 Is it correct that you did not bring it up
19 to the Department of Justice attorneys who were
20 present?

21 A I don't believe I did.

22 Q Did you have the opportunity to do so in a

1 confidential way if you had so intended?

2 A Yes.

3 Q And would that be true also of the FBI
4 agents?

5 A Yes.

6 Q Now, one of the things that you said about
7 your objection to Mr. Newarth being present during
8 the interview was that you thought his reason for
9 being there was to keep Mr. Nussbaum apprised of what
10 was said.

11 A I believe that was one of his purposes,
12 yes.

13 Q Did you understand that there might be
14 other reasons associated with the confidentiality of
15 the White House and the materials that might be
16 coming and going through the White House counsel's
17 office that would also justify Mr. Newarth's being
18 present?

19 A In my mind, I don't believe it would
20 justify him being present any more than that these
21 people need to keep things confidential. If they
22 can't tell me, they can't tell their husbands, they

1 can't tell their friends. They don't have White
2 House counsels following them all around.

3 Q I don't want to engage in an argument with
4 you.

5 A But that is how I am thinking.

6 Q But you are interrogating them as opposed
7 to presumably --

8 A Interviewing them.

9 Q -- her cousins and other people whom she
10 might come into contact with.

11 A We could have set some very clear ground
12 rules. We could have videotaped interviews. We
13 could have done a number of things. That could have
14 made us both a little happier, I think.

15 Q In hindsight, certainly better procedures
16 could have been worked out, but all of those
17 procedures would have occasioned further delay.
18 Isn't that so? To work out the procedures and ground
19 rules and scope and videos?

20 A With that number of attorneys involved, I
21 am sure.

22 Q It sounds like analysis.

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1 (Laughter.)

2 A I am really not trying to be flippant.
3 But it seems like a simple enough thing to do.

4 Q All right. And it got to be sort of an
5 Arlow Guthrie "Alice's Restaurant," helicopters and
6 specially
7 trained dogs type of deal.

8 (Laughter.)

9 Let me show you your report, undated, but
10 undated on our copy because the bottom is cut off -- it
11 may be dated on the original -- that is titled 7/21/93,
12 Bernard Nussbaum.

13 I show it to you so that --

14 MR. GIUFFRA: Do you have a cleaner copy
15 that doesn't have red markings?

16 MR. BEN-VENISTE: No. I'm sorry, I don't.

17

18 BY MR. BEN-VENISTE: (Resuming)

19 Q But I will read to you without any
20 suggestion from red marking. You can probably read
21 through it on the other side.

22 A I can save us some time.

1 Q "It was determined that the cleaning lady
2 had emptied Mr. Foster's trash. The trash was
3 retrieved and returned to the office."

4 Does that help your recollection that you
5 learned that on the 21st before the inventory and
6 review of the contents of Mr. Foster's office on the
7 22nd?

8 A Yes, it does. That's correct.

9 Q Okay.

10 MR. BEN-VENISTE: Off the record.

11 (Discussion off the record.)

12 MR. BEN-VENISTE: On the record.

13 BY MR. BEN-VENISTE: (Resuming)

14 Q In that context, would it be fair to say
15 that when you learned that the trash had been
16 retrieved and returned to the office, that you may
17 have been mistaken about whether it was returned to
18 Mr. Foster's office personally or whether it was
19 returned to the suite or somewhere other than being
20 disposed of as trash?

21 A I may have been mistaken as to exactly
22 what Mr. Nussbaum meant by retrieved.

1 Q The thing that you focused on when you
2 were listening to the this was that the trash had
3 been preserved and prevented from being destroyed in
4 the normal course of trash removal?

5 A Right.

6 Q Okay.

7 You indicated when Mr. Giuffra was
8 questioning you that you recall if there were four
9 piles or four categories that Mr. Nussbaum was
10 keeping. Can you restate
11 those to the best of your recollection?

12 A As I remember, there was one that was
13 White House business; one that we might have -- the
14 police might have interest in; one that was strictly
15 family business would go to the family attorney.

16 Q Does that refresh your recollection that
17 the other category was the personal papers of the
18 President and the First Lady?

19 A I honestly can't recall saying that.

20 Q Do you know what the fourth category was?

21 A The fourth category was papers that
22 Mr. Nussbaum deemed were White House business but

1 then that he and Justice attorneys would discuss at a
2 later time. That was the fourth category.

3 Q Weren't those put into the category of
4 interest or possible interest to the police?

5 A I don't believe so.

6 Q Okay.

7 A That's the best I can recall.

8 MR. BEN-VENISTE: Why don't we take five
9 minutes and then try to finish up.

10 THE WITNESS: It's up to you.

11 (Recess.)

12 BY MR. BEN-VENISTE: (Resuming)

13 Q With respect to Mr. Nussbaum's removal of
14 documents from Mr. Foster's briefcase on the 22nd of
15 July.

16 A Right.

17 Q Do you recall whether he pulled
18 out -- strike that.

19 Do you recall whether there were loose
20 papers in addition to file folders that were removed?

21 A I believe there were loose papers. I
22 don't recall specifically what was taken out of that

1 briefcase.

2 Q Do you recall what Mr. Nussbaum said about
3 them from the standpoint of categorizing those
4 documents?

5 A No, I don't.

6 Q I take it you were not taking notes during
7 this process or procedure?

8 A I had a notebook. I don't recall right
9 now taking any notes.

10 Q Do you want to review your notes to see
11 whether any of them related to this process?

12 A Sure.

13 (Documents were placed before the
14 witness.)

15 MR. BEN-VENISTE: The record will show
16 that the handwritten notes previously identified by
17 Sergeant Markland have been furnished to him.

18 THE WITNESS: I have a page marked 127
19 from my notebook that has a list that may have been
20 jotted down by me during the search of the office.

21 I can't think of what else it would have
22 been from.

1 BY MR. BEN-VENISTE: (Resuming)

2 Q Do you want to read that into the record?

3 A The first entry says, "Personal note."

4 The second entry says "7:20 call log."

5 The next entry says "Newspaper," I can't
6 make out the word, and "copy," with a question mark.

7 The next entry says "Insurance policy
8 folder." Name on 8x11 page. May business calendar.
9 And January phone slips.

10 I am fairly certain these are jotted down
11 by me during that search of the office.

12 Q Okay.

13 As you sit here today, do they have any
14 particular relevance to you?

15 A No.

16 Q At some point I think you testified that
17 because of your state of annoyance with the
18 procedure, that you may have suggested certain things
19 to be put in the category of interest to Park Police
20 to, I think your words were, "to play with
21 Mr. Nussbaum a little bit."

22 A I believe I stated that, yeah.

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1 Q Could you, for purposes of clarification,
2 elaborate on that?

3 A I believe there might have been an item
4 that I wasn't particularly interested in that I might
5 have wanted put in that pile for perusal by the
6 police.

7 Q In other words, you may have, simply to
8 vent your annoyance with Mr. Nussbaum's procedure,
9 suggested something which you knew was unlikely to be
10 relevant, just for the purpose of annoying him a
11 little bit?

12 A More or less just to remind him that we
13 were there.

14 Q And the circumstances of your discussion
15 with the reporters from the Washington Post and the
16 Associated Press are gone into somewhat by Mr.
17 Giuffra and later by me. I wonder if you could put
18 into context the timing of your discussions with
19 those reporters in relation to any point in which you
20 provided information about Mr. Livingstone to the
21 independent counsel's office.

22 Do you remember whether you talked to the

1 reporters before you were interviewed by the
2 independent counsel's office or afterwards?

3 A It was all around the same time period. I
4 don't know. It definitely wasn't during the -- Mr.
5 Fiske's probe, and that was brought up then. It was
6 brought up in the spring of this year during or
7 around the time between some of the times that I was
8 talking to the Starr -- Mr. Starr's people.

9 Q Did you discuss -- strike that.

10 Were you interviewed by anyone from
11 Mr. Fiske's office or in connection with Mr. Fiske's
12 investigation?

13 A Concerning Mr. Livingstone?

14 Q No. In general.

15 A Yes.

16 Q And that was approximately when?

17 A Oh, over a year ago. A year ago. I can't
18 recall.

19 Q To the best of your knowledge, did you
20 mention anything about Mr. Livingstone and Mr.
21 Abbott's report when the Starr investigators
22 questioned you?

1 MR. GIUFFRA: Can we go off the record a
2 second?

3 (Discussion off the record.)

4 THE WITNESS: Yes. It was brought up
5 during both inquiries.

6 BY MR. BEN-VENISTE: (Resuming)

7 Q Okay.

8 You have a clear recollection of providing
9 to Mr. Fiske's investigators the substance of the
10 information that you provided to us about Mr.
11 Abbott's providing information to you on the 21st of
12 July and your follow-up with Mr. Livingstone?

13 A Yes.

14 Q Do you remember whether it was an FBI
15 agent who questioned you in connection with Mr.
16 Fiske's inquiry?

17 A I don't recall. There were several times,
18 and there would be several people talking to me, and
19 I can't recall exactly who.

20 Q Did you make any note of who was
21 conducting the interview?

22 A No, I didn't.

1 Q So is it fair to say on several occasions
2 the Livingstone matter was at least discussed with
3 the Fiske investigators?

4 A It was discussed. I don't know -- every
5 aspect was discussed rather thoroughly.

6 Q You don't know whether every aspect was
7 discussed?

8 A No, I am sorry. I cut myself off.

9 I don't know how many times the
10 Livingstone matter was discussed, but it was
11 discussed at length. It was every matter.

12 Q Okay.

13 Did you testify in the grand jury in
14 connection with that matter while Mr. Fiske was still
15 operating as special counsel?

16 A No.

17 Q Now, the next time you were questioned
18 about this incident was in the spring of 1995?

19 A Yes.

20 Q That was by either lawyers or agents or a
21 combination of those operating under Mr. Starr's
22 authority?

1 A Right. Yes.

2 Q If I understand your testimony, you do not
3 recall whether your interview by Mr. Starr's
4 investigators was before or after you spoke to the
5 press?

6 A Well, I am positive that it was discussed
7 after the articles came out with them. I just cannot
8 remember whether or not it was brought up before
9 because there were several, several appointments with
10 those people also.

11 Q Did you initiate any contact with the
12 Starr investigators, or was it they who initiated
13 contact with you?

14 A I was requested through my chief's office
15 to appear before them just as I was to appear before
16 you all.

17 Q Right. But prior to the official request
18 coming from the chief, do you recall whether you made
19 any effort to reach out and contact them?

20 A Absolutely not.

21 Q Okay.

22 A No.

1 Q Now, you know that you received an
2 additional invitation or certainly received an
3 invitation to come and talk to the Starr
4 investigators after your interviews with the press.
5 My question is whether you had spoken to the Starr
6 investigators before you spoke to the press?

7 A Yes. I had on at least one occasion been
8 interviewed by them. I just don't know if
9 Mr. Livingstone had been brought up in that
10 discussion yet, if that is what you --

11 Q Do you remember who it was who
12 interrogated you? Was it the FBI, or was it lawyers
13 or a combination?

14 A I believe for the most part they were
15 attorneys. I don't recall names.

16 There were several people. I don't
17 recall.

18 Q But the first interview did not cover the
19 subject of the Livingstone matter. Is that right?

20 A I am really not sure.

21 Q I thought you had just said that.

22 A I don't know if the Livingstone matter was

1 covered before the newspaper article or not.

2 Q I thought you had indicated that in the
3 first interviews you had not yet gotten to the
4 Livingstone matter with the Starr people.

5 A I don't -- I don't recall.

6 Q Okay.

7 But it is your recollection now that you
8 may have gotten into Livingstone subject matter with
9 Mr. Starr's
10 investigators during your first interview with them?

11 A It's possible.

12 Q I am really asking now whether you recall
13 or not?

14 A I don't recall.

15 Q Okay.

16 Is there anything about your interview
17 with them subsequent to talking to the press that
18 would jog your recollection about whether you had
19 brought up the Livingstone matter with them earlier?

20 A Only if we had a transcript from them.

21 Q In other words, did someone say, "Well,
22 you know, how come you didn't mention this? Why do

1 we have to read this in the paper?"

2 A No, and they wouldn't have because they
3 were provided with all my notes and reports, as you
4 all are.

5 Q But putting aside whether they would have
6 or were careful in reviewing that material, I am
7 asking whether there was anything that was said that
8 expressed any kind of surprise or concern that you
9 had talked to the press about this matter?

10 A No.

11 Q And the subject of your interview
12 following the publication of these articles which
13 occurred, I guess, on the 20th of April 1995 --

14 MR. BEN-VENISTE: Read that back to me.

15 THE REPORTER: "Q And the subject of
16 your interview following the publication of these
17 articles which occurred, I guess, on the 20th of
18 April 1995 --"

19 BY MR. BEN-VENISTE: (Resuming)

20 Q -- included the information about
21 Mr. Livingstone?

22 I'm sorry. Let me restate that.

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1 The articles appeared on April 20, 1995,
2 according to my information. Although I don't have a
3 date on the byline, I have a notation that would
4 reflect the date.

5 Does that sound about right?

6 A It sounds reasonable, yeah.

7 Q My question to you is: In your interviews
8 by the Starr office following the publication of
9 these articles, was the subject of Mr. Livingstone
10 covered?

11 A Yes.

12 Q And did you thereafter testify before a
13 grand jury?

14 A Yes.

15 Q Was that the first occasion when you
16 testified before a grand jury?

17 A In this matter. Yes.

18 Q In this matter. Yes. Obviously. In your
19 other law enforcement duties you were called upon to
20 testify before grand juries from time to time.

21 A Right.

22 (Documents placed before the witness.)

1 This report also appears to me August 4,
2 1993, which is page 2 of two pages, concerning the
3 search of the office, review of the documents from
4 Vince Foster's office.

5 Q Does that refresh your recollection that
6 the report may have been prepared a week or two after
7 the events?

8 A At this point I would say it was completed
9 and dated August 4.

10 Q Okay.

11 For whatever reason, you did not take
12 issue with Captain Hume's recollection of the
13 documents being pulled out at once. Is that correct?

14 A I didn't, and I don't recall any conflict
15 over the report with Captain Hume.

16 Q Do you recall whether Mr. Nussbaum was
17 standing or sitting when he removed the documents
18 from the briefcase?

19 A Sitting.

20 Q And where do you recall the briefcase was
21 at the point that he pulled the documents out of it?

22 A To the right of his chair.

1 Q On the desk?

2 A On the floor.

3 Q On the floor.

4 If others were to say that the briefcase
5 was on the desk or credenza, would you take issue
6 with that?

7 A Yes. I remember it being on the floor to
8 his right.

9 Q Okay.

10 MR. BEN-VENISTE: At this point I have no
11 further questions. I believe Mr. Giuffra will have a
12 few questions.

13 MR. GIUFFRA: May I have a copy of that?
14 A clean copy?

15 (Discussion off the record.)

16 MR. BEN-VENISTE: A clean copy.

17 FURTHER EXAMINATION

18 BY MR. GIUFFRA:

19 Q In your experience working with Captain
20 Hume, did he normally prepare reports on the same day
21 as the relevant events?

22 A It's hard for me to answer that. This is

1 the first time I ever worked with Captain Hume with
2 him in an investigative status.

3 It is not common practice for detectives,
4 if I could add this, to always complete reports on
5 the date of the event.

6 For the most part, during this case, I
7 believe they were done that way just because of the
8 nature of the investigation, the status of the
9 investigation and the chief's office wanting to know
10 the status of the investigation on a fairly mostly
11 daily basis.

12 Q Do you think it's possible that the report
13 might have been signed on a different day than it was
14 prepared?

15 A That would be possible.

16 Q So you don't know whether the date there
17 reflects the date that the report was prepared or
18 just the date that the report was signed? You don't
19 have any knowledge?

20 A I have no knowledge of that.

21 (Pause.)

22 Q Am I correct that before speaking to the

1 reporters, you spoke to Major Hines?

2 A About speaking to the reporters?

3 Q Yes.

4 A Yes.

5 Q And you asked for his permission as to
6 whether you could speak to the reporters?

7 A I didn't ask. The reporters began calling
8 my office. I advised them that before I would talk
9 to them, they would have to clear any interviews with
10 the chief's office. Hang up the phone, and two
11 minutes later, Major Hines would call me and tell me
12 it's okay to talk to specific reporters. Two minutes
13 after that, they'd call back.

14 Q On the 21st, when you arrived at the White
15 House, in the morning, were White House officials
16 surprised by your appearance?

17 (Pause.)

18 Let me strike the question.

19 When you arrived at the White House, and
20 on any occasion, you have to be cleared into the
21 White House, am I correct?

22 A Yes.

1 Q Had you called in advance and given your
2 birth date to the White House so you could be cleared
3 in?

4 A I didn't, no.

5 Captain Hume had made calls prior to that,
6 and we were expected at the southwest gate by the
7 Secret Service before we got there.

8 That is my only direct knowledge of that,
9 of what arrangements were made.

10 Q So there had been communications between
11 Captain Hume and at least the Secret Service before
12 you got there?

13 A Yes.

14 Q Prior to Mr. Newarth's presence at the
15 staff interviews, is it possible that you would have
16 obtained more information from those persons you were
17 interviewing had he not been present?

18 A I believe so. The best interview
19 situation is actually a one-on-one experience. At
20 the most, I don't like to have more than myself and
21 one other detective interviewing a person.

22 The ideal situation is one-on-one. I

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1 believe it's possible and probable that you obtain
2 more information in that manner.

3 Q You would argue that it would be more
4 probable or possible?

5 A I would have to say probable.

6 Q Did you have a sense that Mr. Newarth, at
7 least as far as the people you were interviewing, was
8 higher up in the pecking order in the White House
9 counsel's office?

10 A Than the secretaries, you mean?

11 Q Than the secretaries.

12 A Yes.

13 Q And so do you believe that some one who is
14 higher up in the pecking order is sitting in an
15 interview with the secretaries, that they might be
16 more likely to clam up in that circumstance?

17 A I believe it was an intimidating situation
18 for that amount of people to listen to what they have
19 to say.

20 Q Now, am I correct that the police are
21 trained to maintain the confidentiality of
22 information that they learn in the course of an

1 investigation?

2 (Pause.)

3 A It's one of the -- it's an ethical
4 consideration, and I do personally, always have.

5 However, it is -- if there is something that
6 you need to disclose if you are going to actively go
7 in a certain direction, you've got to weigh, weigh
8 the value of the information against the
9 confidentiality and make a decision at that point.

10 So it's a hard question to answer.

11 Q Had you been given an opportunity to
12 review the documents in Mr. Foster's office, would
13 you have disclosed the contents of those documents
14 other than would be necessary in connection with your
15 investigation?

16 A Absolutely not.

17 Q There was some testimony about a category
18 of documents during the course of the Nussbaum review
19 of interest to the police.

20 You didn't get to decide what documents
21 would be of interest to the police. Is that correct?

22 A No.

1 Q That determination was made by
2 Mr. Nussbaum?

3 A Yes.

4 Q And, in fact, I believe -- let's be clear on
5 this -- he didn't tell you very much about the
6 documents as he was going through them?

7 A He would categorize and/or title them in
8 generalities. He would say -- I can't remember
9 specifics, but, "This is something we're working on
10 for health care," like those types of statements.
11 But there was no specifics.

12 Q And you would like to have had an
13 opportunity to have decided what documents you would
14 review more closely?

15 A Of course.

16 Q With regard to the torn-up note that was
17 found after Mr. Foster's death, do you consider that
18 torn-up note critical evidence to your death
19 investigation?

20 A It's not the -- it wasn't a turning point in
21 the investigation or anything, but it was -- it was
22 helpful.

1 Q Had you been able to obtain that note
2 perhaps on the 22nd, might you have been able to
3 foreclose or might you have been able to conclude the
4 investigation sooner?

5 (Pause.)

6 A It's possible. It would have been helpful
7 in any subsequent interviews. It's hard -- that's
8 another hard question to answer. It was -- it was a
9 valuable, valuable document, given that we had very
10 little else in the way of documentation.

11 Q Would you agree that it was probably the
12 most valuable document that you obtained in the
13 course of the entire investigation?

14 (Pause.)

15 A Along with the -- we had the phone numbers
16 of the doctors, and it was very -- it was one of the
17 most valuable documents.

18 Q Do you recall any discussion in the course
19 of the investigation, either with the FBI or Justice
20 Department officials, with regard to trying to
21 determine whether Mr. Foster was a victim of
22 blackmail?

1 (Pause.)

2 Let me try to --

3 A There were all kinds of theories thrown
4 around early, on just thinking out loud. So I am
5 sure I would have mentioned it at one point maybe to
6 some FBI people early, talking about the agents early
7 on in the investigation.

8 But I don't recall specifically.

9 There were all kinds of theories and by
10 way of checking out different avenues, usually I
11 would just start off an investigation, start thinking
12 out loud with whoever I am working with.

13 Who I specifically talked to about that, I
14 don't know.

15 Q But you think it's possible that that was
16 something that would have come up?

17 A It's possible.

18 Q Do you recall if there was any discussion
19 with regard to whether Mr. Foster might have
20 committed suicide because of something he was working
21 on, some matter he was working on at the White House?

22 A I know I have discussed that by way of one

1 of those theories. It's probably with Captain Hume.
2 And exactly who, I couldn't tell you. I don't
3 recall.

4 Q Do you recall any discussion during the
5 course of the investigation with regard to whether
6 perhaps Mr. Foster might have disclosed any
7 government secrets improperly?

8 A I don't recall discussing that with
9 anyone.

10 MR. GIUFFRA: No further questions.

11 FURTHER EXAMINATION

12 BY MR. BEN-VENISTE:

13 Q Picking up on Mr. Giuffra's last question,
14 was there any suggestion from any source that
15 Mr. Foster had compromised his security clearance or
16 had otherwise engaged in espionage or some other such
17 activity as Mr. Giuffra is suggesting?

18 A No.

19 MR. GIUFFRA: Just so the record is clear,
20 Richard, I wasn't suggesting that that is a fact.

21 MR. BEN-VENISTE: I don't know what you
22 were doing, but it's the introduction of something so

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1 bizarre at this level of the investigation that I
2 thought it warranted at least a follow-up question.

3 BY MR. BEN-VENISTE: (Resuming)

4 Q I trust there was no credible evidence or
5 any evidence of blackmail that you came upon?

6 A No.

7 Q In connection with Mr. Giuffra's question
8 about the preparation of reports, isn't it the normal
9 procedure to date and sign a report at the time that
10 it is concluded rather than sign it and then type in
11 a date at some later point?

12 A Yes.

13 Q So, applying normal procedures to the
14 report of Captain Hume, dated August 4, 1993, you
15 would presume that he signed it on the typed date of
16 August 4?

17 A If that was my report and my typed date
18 and my signature, it would have been signed on the
19 4th. And I would presume the captain would do the
20 same thing.

21 But I have no direct knowledge.

22 Q And you wouldn't have a finished report

1 hanging around on your desk and with only your
2 signature and then date to go on it?

3 A No.

4 Q If you had seen a file in Mr. Foster's
5 office on the 22nd of July or on the 21st of July
6 that said "Whitewater" on it, would that have sparked
7 your interest in further review of the documents
8 contained in such a file?

9 A No.

10 Q Nor, I trust, would a file marked
11 "Blewater" or "Pinkwater" or any other colored
12 water?

13 A Right.

14 Q You were looking for evidence that would
15 lead to shedding some light on the cause of
16 Mr. Foster's death and more specifically evidence of
17 his being distraught, his evidence or evidence of
18 suicidal thoughts?

19 A Absolutely the only thing I was looking
20 for.

21 Q Ad it is fair to say that you would not
22 start looking into a file to see whether this was the

1 kind of file that might give him a problem that would
2 make him so upset that he might take his life?

3 A I would not look into a file to see if it
4 would bother me if I was him to take my life. I
5 would look for things that bothered Mr. Foster.

6 So I would not make a judgment based on a
7 content of a file like that.

8 Q In other words, you wouldn't know one way
9 or the other whether something he was working on was
10 a thorny problem of a difficult problem for his
11 client or for him but rather you were looking for
12 clear statements reflecting his state or mind?

13 A Right.

14 Q Mr. Giuffra asked you whether if you had
15 seen the note on the 22nd as opposed to the 29th,
16 whether that would have likely helped you conclude
17 the investigation earlier.

18 Let me ask you when the investigation into
19 Mr. Foster's death was concluded?

20 A I would have to look at that in the case
21 file to tell you that.

22 (Pause.)

1 MR. BEN-VENISTE: Let's take just a
2 second.

3 (Discussion off the record.)

4 (Documents placed before the witness.)

5 BY MR. BEN-VENISTE: (Resuming)

6 Q Let me show you documents that are marked
7 14 and 15 and ask you whether that helps refresh your
8 recollection as to when the investigation was
9 concluded?

10 (Pause.)

11 A Okay. This is a final report synopsis
12 conclusion authored by myself which asks for and did
13 reclassify the incident from death investigation into
14 suicide.

15 I don't have the date that I wrote this,
16 but on August 5, 1993, it was submitted and signed by
17 Captain Hume.

18 Q Do you think that you submitted it to
19 Captain Hume fairly close to the date of August 5?

20 A Most likely on the 5th.

21 Q Okay.

22 Is there any reason why you would conclude

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1 that this investigation might have been closed even
2 more quickly had you seen the note a few days
3 earlier? That would really be speculation, wouldn't
4 it?

5 A Anything is possible. It's hard to say.

6 Q Finally, Mr. Giuffra raised with you the
7 issue of whether police are trained to maintain the
8 confidentiality of information learned in the course
9 of an investigation.

10 I would like to follow up on that for a
11 moment and ask you whether this is something you were
12 trained to do initially when you joined the Park
13 Police or is this the subject of refresher courses or
14 advanced training?

15 A I would say it comes more under the
16 heading of advanced training and ethics.

17 Q Do you recall a particular time in your
18 career training where you received such instruction?

19 A More from advice and practical experience.
20 I've worked a lot of informants as a narcotics
21 investigator. More morality than book learning to
22 me.

1 Q So it's something that you learn as part
2 of your experience working with more senior people
3 and really learning what the ethics of the job
4 entail?

5 A For the most part.

6 Q I believe you stated with respect to
7 Mr. Giuffra's question that the question of
8 maintaining confidentiality of information in the
9 course of an investigation is an ethical
10 consideration rather than a legal one?

11 A Yeah. Yes.

12 Q And you had one caveat, and I want to make
13 sure I understood what it was. You said "However, if
14 it's something you need to disclose if you're going
15 to go in a certain direction, then you have to weigh
16 that against the ethical obligations of
17 confidentiality."

18 Is that an accurate restatement of what
19 you said?

20 A I said that and I understand what I meant.

21

22 I go back again to things like working

1 informants, informants' statement and their
2 identities. I have dropped cases in district court
3 because an attorney wanted me to disclose an
4 informant after I have told them I wouldn't.

5 Q After you told the informant you wouldn't?

6 A Right.

7 The -- it's a very hard question to answer
8 because if I accidentally came upon something I found
9 out was horrendous and criminal, and somebody told
10 me, well, I had to keep that a secret, well, that
11 would be too bad.

12 Q What I am interested in is how you applied
13 that equation to the determination to talk to the
14 reporters about Livingstone and what you had
15 discussed with Mr. Abbott and Mr. Livingstone in July
16 of 1993.

17 A Well, for one, okay, during that matter,
18 they specifically asked me about Mr. Livingstone and
19 the box. They already knew.

20 Q In other words, you are saying that the
21 reporters already knew your name and they knew that
22 you had had some connection with Mr. Livingstone and

1 the box?

2 A Right. Yes.

3 Q And that how did that enter into the
4 equation then? If they already had the information,
5 then why did you need to tell them anything?

6 A I didn't need to tell them anything, and
7 they were -- I was basically told by the chief's office
8 to submit to an interview. And I hadn't accused
9 Mr. Livingstone of anything. So I didn't have any
10 problem at all with it. I wasn't slandering anybody
11 with those statements.

12 Q Well, I wasn't accusing you of slandering.
13 I hope you don't take that it that way.

14 A Okay.

15 Q Having explained to Mr. Giuffra your
16 theory of the ethical considerations involved, I
17 guess I am unclear of how the ethical considerations
18 regarding the information you had learned in the
19 Foster suicide investigation could be revealed to the
20 press unless you had some other law enforcement
21 motivation in connection with making those
22 revelations. Did you have some other motivation?

1 A I didn't reveal anything to the press, is
2 what I am telling you.

3 Q Because you think that information had
4 already been leaked to the press?

5 A I know it had been.

6 Q Because of the questions, the detail of
7 the questions that they gave you?

8 A Yes.

9 Q Did you ask them where they had heard this
10 or whether this was public in any way?

11 A No, I didn't.

12 Q You knew, didn't you, up to that point
13 that this information had not been publicly
14 disseminated. That was the reason why this was a
15 news story. Right?

16 A It was over a year and a half after the
17 investigation I had read and had sent to me countless
18 articles on conspiracy theories and what really
19 happened and a lot of reporters saying a lot of
20 things, and it got to the point where I didn't see
21 where it mattered what was printed in the papers.

22 I was basically fed up and when the

1 chief's office cleared these people, I said, "Fine."
 2 I didn't have any conflict with my ethics in
 3 confirming something that the press was already
 4 telling us.

5 I feel that we took a lot of hard hits in
 6 the press because we did not want to honor any of the
 7 interviews by the members of the press. That's the
 8 stance we took.

9 Q When you say honor the interviews, you
 10 mean you didn't want to submit to interviews?

11 A Submit to interviews. But with the press,
 12 it's damned if you do and damned if you don't. If
 13 they know nothing, they can hurt you. So that's why
 14 I talked to those people at that time.

15 Q It wasn't because you had any animosity
 16 toward the White House or Mr. Livingstone?

17 A Absolutely not. I was trying to take the
 18 mystery out of Mr. Livingstone with his box. I
 19 never accused him of anything.

20 Q And it was not your intention in talking
 21 to the press that they should get the idea that you
 22 were accusing the White House of doing anything

1 improper?

2 A No. This was specific to really
 3 Mr. Livingstone, these articles.

4 Q And were you accusing Mr. Livingstone of
 5 doing anything improper in your comments to the
 6 press?

7 A No.

8 Q And that was not your intention?

9 A No, and I still don't believe that the
 10 articles reflect that.

11 Q I am not suggesting they do or they don't.

12 A Okay.

13 MR. BEN-VENISTE: I have nothing further.

14 FURTHER EXAMINATION

15 BY MR. GIUFFRA: (Resuming)

16 Q If there were matters at work that
 17 bothered Mr. Foster, perhaps matters that were
 18 causing him to consider hiring a lawyer, might that
 19 be relevant in determining his state of mind?

20 A It's possible, and it would give me
 21 another tack to take in a discussion with his wife
 22 and/or an attorney. But it's possible.

1 MR. GIUFFRA: No more questions.

2 MR. BEN-VENISTE: Off the record.

3 (Discussion off the record.)

4 MR. BEN-VENISTE: Thank you very much.

5 We haven't explained to Sergeant Markland

6 the procedure for signing depositions and reviewing

7 them.

8 MR. GIUFFRA: Off the record a second.

9 (Discussion off the record.)

10 MR. GIUFFRA: Four days before the time if

11 you are called as a witness before the committee, the

12 transcripts will be made available to you in a room

13 in the Senate, and you will be able to review the

14 transcript to see whether the transcription is

15 accurate and then at that time make any changes that

16 you think need to be made and then have an

17 opportunity to sign the transcript.

18 If you are not being called as a witness,

19 four days before the start of the hearings you will

20 have that same opportunity.

21 THE WITNESS: Do we have a firm date on

22 the start of these hearings yet?

1 MR. GIUFFRA: There has not been an

2 official date that has been set, although sometime in

3 the middle of July. What we will try to do is we

4 will try to give you advance notice of the day if you

5 are called as a witness that you will likely to be

6 called to testify.

7 THE WITNESS: Okay.

8 MR. GIUFFRA: But thank you very much for

9 coming, especially twice

10 MR. BEN-VENISTE: That's it.

11 (Whereupon, at 5:10 p.m., the taking of

12 the deposition ceased.)

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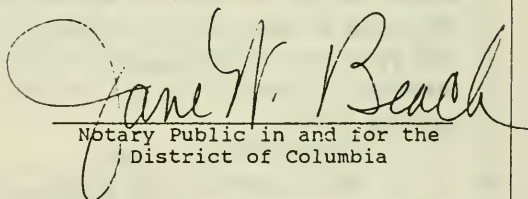
21

22

PETER W. MARKLAND

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 1996

**DEPOSITION OF SCOTT SALTER
IN RE: S. RES. 120**

FRIDAY, JUNE 30, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of SCOTT SALTER, called for examination pursuant to notice of deposition, at 9:43 a.m. in Room 640-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

EVERETT C. JOHNSON, JR., Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

PAUL J. FISHMAN, Esq.
CHARLES J. SGRO, Esq.
Special Assistants to Deputy Attorney General
U.S. Department of Justice
ANDREA M. SIMONTON, Esq.
Deputy General Counsel
Federal Bureau of Investigation
On behalf of the Deponent.

ALSO PRESENT: FELISA RODRIGUEZ

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PROCEEDINGS

Whereupon,

SCOTT SALTER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. JOHNSON:

Q Good morning, Mr. Salter. We've had an opportunity to meet previously off the record, so for the benefit of the record, let me say again who I am and why we're here this morning. My name is Everett Johnson and I'm one of the attorneys working on the majority staff of the special Senate committee investigating Whitewater and related matters.

What brings us here this morning is Senate Resolution number 120 which constitutes the special committee and directs the investigation into Whitewater and related matters. In particular, today the topic of our inquiry is the investigation into Vincent Foster's death on or about July 20th, 1993. And specifically the handling of the documents in Mr. Foster's office at about that time.

4

Let me ask you preliminarily whether or not you've ever been deposed before, and I don't mean in connection with this matter but just ever.

A No, never.

Q Okay. I'll spend a moment or two on some easy procedures that will make our deposition more efficient today.

Ms. Zuber is our shorthand reporter. She will make a verbatim transcription of the questions that I or Mr. Kravitz ask you, and your answers to those questions. In order for her to do that, it's important that we both remember two things.

First, she can't record simultaneous conversations, so please try and allow me to finish the question before you give an answer even though you will often know what the question is before I finish stating it.

The other thing is to remember to respond verbally and not with gestures or other forms of nonverbal communication. She can't record those.

A Right.

Q I'll try and make my questions just as

1 clear as I possibly can. I will sometimes fail at
2 that. When I do, I'll count on you to tell me that
3 you don't understand the question. There's nothing
4 here today that's designed to be tricky or deceitful
5 in any way. So if you feel as if you don't
6 understand a question, or don't know what I'm getting
7 at, just say so and we'll try and make it very
8 clear.

9 Feel free to consult with your counsel at
10 any time, and if you feel like you need to take a
11 break at any time for any reason, just say so and
12 we'll do that.

13 A Okay.

14 Q Did you meet with anyone in preparation for
15 your deposition testimony here today?

16 A I met with Paul Fishman, Andrea Simonton
17 and Charles Sgro.

18 Q The three attorneys who are here with you
19 this morning?

20 A Yes. On Wednesday.

21 Q Was anyone else present during that
22 meeting?

1 A No.

2 Q Other than that meeting with the attorneys
3 that you've just described, have you had any
4 conversations with anyone else on the topic of your
5 deposition testimony here today?

6 A No, not really.

7 Q You haven't been contacted by anyone, say,
8 from the White House or --

9 A Oh, no, no.

10 Q Why don't you take a moment and describe
11 your employment history with the FBI.

12 A I entered on duty with the FBI in January
13 of 1989, and in April of '89 was assigned to the
14 Washington field office, and for almost the entire
15 time I've been at the Washington field office, I've
16 been assigned to a violent crime squad, a squad that
17 investigates a number of violations, bank robbers,
18 armored car robbers, assaults or killing of federal
19 officers, and also including assaults on the
20 President, members of Congress. We investigate all
21 those violations.

22 Q And when you say "assaults on the

1 President," that broadly interpreted also includes
2 the presidential staff, does it not?

3 A That's correct.

4 Q Are you still stationed in the Washington
5 field office today?

6 A Yes.

7 Q And are you still part of that same violent
8 crime squad?

9 A Yes.

10 Q Throughout the course of the deposition, we
11 will be focusing a lot on the time period in July
12 1993, specifically in the few days or so surrounding
13 Mr. Foster's death. So I'll, I put that out there
14 now because I will try and be clear about the time
15 period that I'm asking, but if it's ever unclear, let
16 me know that you're not sure about when I'm talking
17 about.

18 Today, Mr. Salter, to whom do you report?

19 A My immediate supervisor is John Danna,
20 D-a-n-n-a.

21 Q What's Mr. Danna's title?

22 A He's a supervisory special agent.

1 Q Okay. And you also reported to Mr. Danna
2 in July of 1993, did you not?

3 A That's correct.

4 Q How long have you reported to Mr. Danna?

5 A Well, it's been over five years, almost six
6 years now.

7 Q Since you joined the unit?

8 A Almost my entire time at the Washington
9 field office.

10 Q And do any agents report to you today?

11 A No.

12 Q And I take it that would be true also in
13 July of 1993?

14 A That's correct.

15 Q And a lot of what we'll talk about later,
16 it's our information at the White House that you were
17 accompanied by Special Agent Condon; is that correct?

18 A Yes.

19 Q Are you and Mr. Condon ordinarily teamed
20 together or were -- you just happened to be together
21 for this particular investigation?

22 A We just happened to be together for this

1 investigation although I've worked with him on many
2 other cases before. That was C-o-n-d-o-n.

3 Q Have you in your more than five years with
4 the FBI ever participated in any other investigations
5 inside the White House complex?

6 A Do --

7 MR. FISHMAN: If we could, if I might, if
8 we could limit that to a question, yes or no answer,
9 because I don't know what the answer is myself and
10 depending on the nature of the investigation it might
11 or might not be appropriate for certain inquiry.

12 BY MR. JOHNSON:

13 Q That's fine. For purposes of this
14 question, Mr. Salter, just yes or no.

15 A Yes.

16 MR. JOHNSON: Why don't we go off the
17 record for a second.

18 (Discussion off the record.)

19 BY MR. JOHNSON:

20 Q Mr. Salter, other than, exclude from your
21 answer any investigations that may have to do with
22 routine FBI background inquiries and investigations

10

1 involving people attempting to get inside the White
2 House perimeter, have you ever been involved in any
3 other investigations in the White House?

4 A No.

5 Q Let me give you a list of names, and the
6 question for each of the people that I'll identify is
7 the same and that is did you know who they were
8 before July 21st, 1993. In other words, would you
9 have recognized them before that day.

10 Bernard Nussbaum?

11 A Yes.

12 Q Why is that?

13 A Well, I knew him because I knew he was the
14 counsel to the President.

15 Q Through news reports?

16 A Through news reports. I didn't know him
17 personally, of course.

18 Q But you would have recognized his face you
19 think?

20 A Sure.

21 Q Maggie Williams?

22 A I knew she was, just through news reports,

1 that she was the chief of staff for the First Lady.

2 Q Would you have recognized Patsy Thomasson?

3 A No.

4 Q Referring back now to Ms. Williams, would
5 you have recognized her, even though you knew she was
6 an assistant to the First Lady, would you have
7 recognized her face?

8 A No.

9 Q And I think you said you would not have
10 recognized Patsy Thomasson's face?

11 A That's correct.

12 Q What about Mr. McLarty?

13 A I knew he was the chief of staff of the
14 President, and I would just recognize his face from
15 news --

16 Q News reports. Clifford Sloan?

17 A No.

18 Q Steve Neuwirth?

19 A No.

20 Q Craig Livingstone?

21 A No.

22 Q Evelyn Lieberman?

1 A No.

2 (Discussion off the record.)

3 BY MR. JOHNSON:

4 Q Dee Dee Myers?

5 A I knew that she was worked at the White
6 House and just from seeing her on news reports.

7 Q You think you'd seen her face on
8 television?

9 A Sure.

10 Q Tom Castleton?

11 A No.

12 Q Prior to July 21st, 1993, do you believe
13 that you had ever met Department of Justice attorney
14 by the name of Margolis?

15 A No.

16 Q What about Roger Adams?

17 A No.

18 Q Obviously you'd have recognized the
19 President or the First Lady?

20 A Sure.

21 Q Did you, would you have recognized Vince
22 Foster?

1 A No.

2 Q Mr. Salter, now referring back to July
3 20th, 1993 or thereafter, when do you recall that you
4 first heard of Mr. Foster's death?

5 A I think I, on the morning of the 21st of
6 July, there was, I think it was a fairly small
7 article in The Washington Post that that I remember
8 reading and that told of his body being found.

9 Q Do you recall whether or not you read at
10 that time that it was an apparent suicide?

11 A I think I did read that, that that was the
12 preliminary findings on it.

13 Q What, by the way, are your, were your
14 normal working hours in July of 1993 and by that I
15 mean, I know there are somewhat variable; day shift,
16 night shift?

17 A Pretty much day shift.

18 Q And just generally speaking, what hours do
19 you arrive at work when you work the day shift?

20 A Somewhere around 8:00.

21 Q What do you regard as the end of your
22 working day absent extraordinary circumstances?

1 A Sometime after 5:00.

2 Q July 20th, 1993 was a Tuesday. Do you know
3 whether or not you worked on that day?

4 A I did.

5 Q And I take it your recollection is that you
6 did not learn at any time on that day of Mr. Foster's
7 death, that's the day he died?

8 A On the 20th?

9 Q Yes, sir.

10 A That's correct. I wasn't aware of it on
11 the 20th.

12 Q And July 21st, obviously was a Wednesday.
13 You also worked on that day?

14 A I did.

15 Q You testified earlier that you think you
16 learned of Mr. Foster's death from a small article in
17 The Washington Post. Did there come a time later in
18 the morning on the 21st when you learned more about
19 Mr. Foster's death?

20 A I don't think I heard or learned any more
21 about it until sometime, I think it was afternoon on
22 the 21st when I was called by John Danna.

1 Q What makes you think it was afternoon on
2 the 21st?

3 A Because I know after we were notified, I
4 was in the car with Dennis Condon and we were working
5 on, I think it was a bank robbery case and John Danna
6 called us in my car and told us to go to the
7 southwest gate of the White House and meet him there
8 and that we were to, that we were going to be working
9 on a death investigation involving Mr. Foster's
10 death.

11 And I know that we went to the White House
12 directly from there and spent the rest of the
13 afternoon there which was maybe three hours or so we
14 spent working on this and then I just know it was in
15 the afternoon.

16 Q In your conversation with Mr. Danna, what,
17 if anything, did he say about the circumstances
18 surrounding Mr. Foster's death?

19 A He, I guess it was after we arrived at the
20 White House. We went to the Old Executive Office
21 Building and it was there that he explained to us
22 that Mr. Foster's body had been found the night

16

1 before at Fort Marcy Park. He explained that the
2 Park Police is investigating the matter and that we
3 were going to help them and that at that point it
4 appeared to be consistent with a suicide.

5 Q You think you learned those things after
6 you arrived at the White House?

7 A Yes.

8 Q And not on the radio call or telephone
9 call?

10 A No, not on the phone.

11 Q When you arrived at the White House, you
12 were accompanied by Special Agent Condon; is that
13 correct?

14 A Yes.

15 Q And Mr. Danna had already arrived at the
16 White House when you arrived; is that correct?

17 A Yes.

18 Q And I think you said you went to the Old
19 Executive Office Building, did I hear you right?

20 A Yes.

21 Q Who was physically present with you in the
22 Old Executive Office Building?

1 A We went to a room, and I don't know what
2 floor, what the room number was. There was Dennis
3 Condon, John Danna, I believe Captain Charles Hume
4 and Detective Markland. I believe those were the
5 people that were there and may have been a Secret
6 Service agent there to escort us and I don't recall
7 who that was.

8 Q And just to try to refresh your
9 recollection, do you recall whether it was a Secret
10 Service agent by the name of Martin; is that familiar
11 to you?

12 A I don't -- it may have been. I don't know.

13 Q What was your understanding as you --
14 strike that, that was terrible. Why do you think you
15 were there?

16 A We were there because Mr. Foster in his
17 position in the White House counsel's office was -- I
18 want to put this right. Basically fell under the
19 statute of assaulting or killing the President or
20 President's staff members. And so generally he fell
21 under that, one of those titles that would make it a
22 case that we would participate in the investigation.

1 Q Okay. Was it your understanding that the
2 FBI was conducting that investigation or that some
3 other agency was doing that?

4 A It was clear that the Park Police was the,
5 as we call it, the lead agency in the investigation.
6 And we were to assist them.

7 Q Now, when you arrived I take it early
8 afternoon of July 21st, is that fair?

9 A That's right.

10 Q At the Old Executive Office Building, the
11 Park Police were already present; is that right?

12 A Yes.

13 Q Did you have any understanding when you
14 arrived of how long they had been there?

15 A No.

16 Q Did you have any conversations with
17 Mr. Hume or Mr. Markland in the Old Executive Office
18 Building about the investigation into Mr. Foster's
19 death that you recall?

20 A Not specifically that I recall. There was
21 just general conversation that it appeared to be a
22 suicide.

1 Q Did they, at any time on the afternoon of
2 the 21st -- and by "they" I mean Mr. Markland or
3 Mr. Hume -- express to you any frustration or
4 annoyance at their inability to gain access to
5 Mr. Foster's office at any time on that day?

6 A The issue of access to the office I don't
7 think was brought up that day.

8 Q You didn't understand that you were there
9 to go into Mr. Foster's office on that day?

10 A No. It wasn't my understanding that that
11 was the specific task that we were there for on that
12 day, to go into the office. We were there to
13 generally assist them in conducting the investigation
14 which meant interviewing co-workers.

15 Q Co-workers of Mr. Foster?

16 A Right.

17 Q And any other thing?

18 A No, no, that was basically it. I
19 understood that we were going to do some interviews
20 and then proceed as the investigation, you know,
21 called for.

22 Q So on the 21st of July you didn't yourself

20

1 have any understanding that the Park -- that you or
2 the Park Police or anyone else would be going into
3 Mr. Foster's office on that day?

4 A That's correct.

5 Q Okay. Did you personally think that that
6 would be a natural thing to do, or did you not have
7 an impression one way or another?

8 MR. FISHMAN: Can we go off the record for
9 a second.

10 MR. JOHNSON: Sure.

11 (Discussion off the record.)

12 BY MR. JOHNSON:

13 Q Mr. Salter, my last question was whether or
14 not it occurred to you on the 21st that as an
15 investigator assisting the Park Police that you would
16 want to go into Mr. Foster's office?

17 A Yes.

18 Q Did you express that view to anyone?

19 A No, I don't think so. And I don't even, at
20 that point I wasn't aware if that had already been
21 done, because I knew the Park Police had been working
22 on the case.

1 Q You didn't know, for example, that they had
2 not already been in Mr. Foster's office?

3 A That's correct.

4 Q But you do recall it occurred to you that
5 you at least would want to go in there if it were
6 your investigation; did I say that fairly?

7 A Yes.

8 Q Why, why would, why would you have wanted
9 to go in there?

10 MR. FISHMAN: Can we go off the record for
11 a second.

12 (Discussion off the record.)

13 MR. FISHMAN: When we were off the record,
14 we had a five- or 10-minute conversation among
15 counsel for both the majority and the minority as
16 well as for the FBI and from the Justice Department
17 regarding the appropriate scope of opinion questions
18 to be directed to line agents such as Agent Salter,
19 and there are various policy concerns that give the
20 department and the FBI some pause, some concerns that
21 had been the subject of discussion both here as well
22 as the subject of correspondence between various

1 officials of the department and various members of
2 Congress in the past.

3 And accordingly, we have asked and counsel
4 conducting the depositions have agreed at least for
5 the time being that Special Agent Salter will not be
6 asked about his thought processes as opposed to what
7 occurred on that particular day. To the extent that
8 we need to revisit that issue as additional topics
9 come up, we will do so.

10 MR. JOHNSON: What you say I think is
11 accurate. Let me supplement it in two ways. The
12 first time you characterized the question you
13 characterized it as an opinion question. I think we
14 may just agree to disagree with that. I do agree it
15 was a question about his thought processes and not
16 things he may have said.

17 And we have agreed not to pursue this
18 inquiry further with Agent Salter, but I want to be
19 very clear that that is without prejudice to the
20 possibility that this topic could arise with other
21 line agents or other employees. Just in the interest
22 of time, which we all have an interest in, we've

1 decided to move on.

2 MR. FISHMAN: We appreciate that.

3 BY MR. JOHNSON:

4 Q Let me try and close out this thought,
5 Agent Salter, by asking you, you did testify that it
6 occurred to you that entering Mr. Foster's office
7 might be a thing to do. Did you ever express that
8 thought on the 21st of July to anyone to the best of
9 your recollection?

10 A No, I don't -- it wasn't discussed in the
11 first part that we were there while we were waiting.
12 And then later it did come up as something that
13 would, that was going to be done.

14 Q When did that come up?

15 A Later in the afternoon when we were over
16 there, we went to -- just talked briefly with at the
17 end of the afternoon with Mr. Nussbaum, and it was at
18 that time that, you know, the arrangements were made
19 or schedule set to go through the contents of the
20 office.

21 Q That was the first time on the 21st that
22 you recall discussion by anyone in your presence

24

1 about entry into Mr. Foster's office?

2 A I think so, yes.

3 Q And I want to, I won't surprise you, I want
4 to come back to that. But let me just cover the gap
5 in time that we may have skipped over.

6 You arrived sometime after noon; is that
7 correct, on the 21st?

8 A Yes.

9 Q And what time do you recall this meeting in
10 Mr. Nussbaum's office?

11 A I think it was between 4:00, 4:30, about
12 4:30.

13 Q And so you had been at the White House for
14 some number of hours; is that correct?

15 A About two hours or so.

16 Q Okay. What did you do during those two
17 hours?

18 A We waited in an office that entire time.

19 Q Prior to the meeting in Mr. Nussbaum's
20 office, did you, were you ever informed that
21 representatives of the Department of Justice were
22 coming over to the White House?

1 A I knew that there were people from the
2 Department of Justice involved in talking to people
3 at the White House, and I didn't know who those
4 individuals were. And I pretty much assumed that
5 while we were in the office waiting, they were
6 somewhere else talking.

7 Q So what you're telling me is my question
8 may have been wrong in that it assumed that they were
9 coming to the White House. For all you knew, they
10 were already there?

11 A They may have been, I don't know.

12 Q Whether or not they were already there or
13 coming over, how did you become aware of their
14 involvement at all?

15 A Well, I think I was just aware of it
16 because we waited in the office for quite a while, it
17 was, I think it was, you know, about two hours or so,
18 and during that time it came up several times, what
19 are we waiting for, and I think the answer was that
20 there were people from the Justice Department talking
21 to people at the White House about how we can proceed
22 with the investigation as far as whatever needs to be

1 done at the White House.

2 Q You don't recall more specifically than
3 that how, what the conversations may have been on
4 that afternoon?

5 A No, I don't because it really wasn't clear
6 to me what we were waiting for, other than we were
7 waiting for somebody to finish talking about how we
8 were going to proceed.

9 Q You say it wasn't clear to you what you
10 were waiting for. Was there discussion among the
11 Park Police and the FBI agents who were waiting along
12 those lines, and let me suggest something without
13 necessarily asking you to limit your answer, were the
14 people expressing the view what on earth are we
15 waiting for here, or words to that effect?

16 A Yes.

17 Q Who do you recall expressed that view?

18 A Well, I think I did and I know I -- Captain
19 Hume, I think he, we talked to him briefly about it,
20 and I think the only answer that we had was they're,
21 when they finish talking and figure out how we can
22 proceed, we will. Other than that, it's just you

1 wait.

2 Q Who do you think provided that answer?

3 A Captain Hume and John Danna, I think.

4 Q Did anyone express the view that the
5 investigation was being prejudiced by the delay in
6 interviewing Mr. Foster's co-workers?

7 A No.

8 Q Was it more just an expression that time
9 was being wasted?

10 A I think that's probably more accurate.
11 There wasn't any, we didn't think it was anything
12 that was trying to deliberately delay the
13 investigation. It was just more of a waste of time
14 that, or inconvenience -- not really inconvenience,
15 but just we were there ready to go and just couldn't
16 understand why we couldn't, you know, go ahead.

17 Q What understanding, if any, did you have as
18 you were waiting on the afternoon of the 21st about
19 whether or not Mr. Foster's office had been sealed?

20 A I didn't know whether it had been or not.

21 Q Did you ever ask?

22 A Well, not before we talked to

1 Mr. Nussbaum. Once we did go in to talk to him, then
2 I was made aware of that.

3 Q Fair point. And let me confine my
4 questions to really up to the time of the meeting --

5 A Okay.

6 Q -- with Mr. Nussbaum. Up until that time,
7 did you have any impression one way or the other
8 about whether or not the office had been sealed?

9 A No, I didn't know one way or another.

10 Q Did you have any impression one way or the
11 other about whether or not anyone had entered
12 Mr. Foster's office after his death on July 20th?

13 A I didn't know one way or another.

14 Q Did the topic, even though you didn't know
15 one way or the other, did the topic ever come up to
16 the best of your recollection?

17 A No.

18 Q Do you recall anything else about the
19 afternoon of the 21st before the meeting with
20 Mr. Nussbaum?

21 A No, nothing else is pertinent.

22 MR. JOHNSON: Why don't, Counsel, if it's

1 okay with you, why don't we take a five-minute break
2 now and we'll come back and pick up with that
3 meeting.

4 MR. FISHMAN: It's fine with me.

5 (Recess.)

6 BY MR. JOHNSON:

7 Q Thank you, Special Agent Salter. When
8 we -- before we broke briefly we were, I think, about
9 to discuss a meeting which you've alluded to a couple
10 of times on the afternoon of the 21st in the White
11 House counsel's office. Is that correct?

12 A Yes.

13 Q Let me first of all show you a document
14 that you've been kind enough to help us find off the
15 record. And it's going to be difficult to identify
16 on the record. It is an unnumbered document, but it
17 is dated 7/21/93, and it's in handwriting. Over on
18 the right-hand side it says "Vincent Foster, victim,"
19 and on the left-hand top, the first entry on the top
20 appears to say "counsel to the President," if I'm
21 reading that correctly?

22 A Yes.

1 Q Let me show you this document, Mr. Salter.
2 I realize you are reading a copy of the same
3 document, but for clarity in the record would you
4 identify that we are each referring to the same
5 document?

6 A Yes, it's the same.

7 MR. FISHMAN: Might I suggest that we mark
8 it in some fashion if your rules permit you to do
9 that on documents.

10 MR. IVEY: Yes, they do.

11 MR. KRAVITZ: There is certainly no
12 prohibition to marking it within our own files. Our
13 protocols do not allow us to attach any of these, any
14 of these documents that we've received from the
15 Justice Department or any other source to the
16 deposition transcript itself.

17 MR. FISHMAN: All I'm suggesting is perhaps
18 since we're talking about this document, to make sure
19 it's the same document, that perhaps Special Agent
20 Salter initial the back of it with today's date just
21 so we know that we're talking about the same document
22 for the purpose of the record.

1 MR. JOHNSON: That may be the right thing
2 to do. I actually did not copy this document. I
3 brought our only copy of this document here. So
4 maybe we'll get a copy and do that for purposes of
5 subsequent identifications.

6 MR. FISHMAN: That's fine.

7 BY MR. JOHNSON:

8 Q Special Agent Salter, are these your notes
9 of the afternoon meeting in Mr. Nussbaum's office
10 that you've been describing?

11 A Yes.

12 Q Could you just help us read these. First,
13 I take it I've read the top lines correctly. It says
14 "counsel to the President, Vincent Foster, victim,
15 7/21/93." Is that correct?

16 A That's correct.

17 Q This is your handwriting, isn't it?

18 A It is.

19 Q And did you make these notes
20 contemporaneously with that meeting?

21 A I did.

22 Q Why don't you take us down the various

1 entries beginning with the one that appears to say
2 12:30?

3 A It says "12:30, BN left," and that's
4 Bernard Nussbaum. Below that it says "1:05-1:10,"
5 meaning time 1:05 p.m. to 1:10 p.m., "victim left,"
6 and that would be Mr. Foster, of course. And below
7 that -- just keep reading?

8 Q If you don't mind.

9 A Below that it says "asked for him
10 periodically" -- and this is -- to explain what it
11 means, this is Mr. Nussbaum telling us that on the
12 afternoon of the 20th he asked for Mr. Foster
13 periodically.

14 And after that it says "at 6 still unaware
15 of his whereabouts." Below that it says "paged at
16 6:30 p.m. only attempt to find him." Below that it
17 says "no financial or personal problems." Below that
18 it says "Jim Hamilton family attorney." Below that
19 it says "Betsy Pond Secretary who last saw victim."
20 And then it says "Deborah Gorham, victim's
21 secretary." Below that it says "10:00a.m. on
22 7/22" --

1 Q Go ahead.

2 A That was a time that we agreed to return
3 following day.

4 Q Why don't you continue.

5 A Below that it says "6:20 p.m." --

6 Q Let me stop you before that. The
7 indication "10:00 a.m. on 7/22/93" does not indicate
8 the end of your notes for that session, but rather
9 the fact that on the 21st, 1993, it was agreed that
10 you would return the following morning; is that
11 correct?

12 A That's correct.

13 Q Why don't you keep on reading?

14 A Says "6:20 p.m." something "in BN office."

15 Q Does it -- let me suggest -- does it say
16 "back"?

17 A It may say "back in," I think that's it.
18 It's 6:20 p.m. Mr. Nussbaum said he was back in his
19 office. Below that it says "at approximately 12
20 midnight, BN entered office to look for suicide
21 note. No documents removed." Below that it says
22 "morning of 7/21 at 9:00 a.m., reentered office,

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1 nothing removed." Below that it says "contents of
2 wastepaper can was to be," I guess it says "was taken
3 out, but was returned and put back into office by
4 U.S. Secret Service" -- or it "was put back into U.S.
5 Secret Service custody." Next it says "at 7 a
6 secretary went in there (Betsy Pond). Went in
7 straightened up, nothing removed." And that's the
8 end of the notes.

9 Q Is it your understanding -- strike that.

10 Was your purpose in writing these notes to
11 record what Mr. Nussbaum was telling the assembled
12 group on that afternoon?

13 A Yes.

14 Q To the best of your recollection, are these
15 notes accurate?

16 A Yes.

17 Q Was it your intention to keep a complete
18 record of what Mr. Nussbaum said regarding the day of
19 Mr. Foster's death?

20 A No.

21 Q Can you think of anything that was said
22 that's not included in these notes?

1 A There were -- there were other things
2 said. I can't really recall what they were. I don't
3 think there was anything that was really pertinent
4 that was said that's not included here.

5 Q Now, don't let me lead us in the wrong
6 direction if this is not accurate. We understand
7 from other witnesses that there were other topics of
8 discussion in the afternoon meeting in Mr. Nussbaum's
9 office; is that correct?

10 A That's correct.

11 Q And I just want to be as clear as I can be
12 that these notes are about Mr. Nussbaum's description
13 about what happened on the day that Mr. Foster died
14 and in the early morning hours on the 21st. Is that
15 correct?

16 A That's correct.

17 Q Now, on that topic, are you aware that --
18 do you have any recollection of Mr. Nussbaum saying
19 anything pertinent or material to that topic that's
20 not included in your notes?

21 A No.

22 Q These notes do not indicate what time of

1 day the meeting began on the 21st. Do you have any
2 independent recollection about what time the meeting
3 began?

4 A I think it was about 4:30.

5 Q And who do you recall being present in that
6 meeting?

7 A There were -- there were a lot of people
8 there. I know David Margolis was there, and he
9 was -- he was the one doing the talking for us.
10 These statements that he made weren't in response to
11 questions I posed to Mr. Nussbaum. I didn't say
12 anything in that meeting.

13 We kind of all followed David Margolis in
14 there and -- but there was -- besides Margolis,
15 Markland was in there. There were, I believe, some
16 other lawyers from the White House counsel's staff in
17 there. Dennis Condon, I believe, was in there,
18 although he may have waited outside.

19 The office is fairly small, so it seemed to
20 be there was so many people going in there that some
21 waited outside. And John Danna waited outside. I
22 can remember me, Margolis, Markland, maybe Captain

1 Hume, a couple of Secret Service agents, Imbordino
2 and Flynn, Paul Imbordino and Don Flynn. I think
3 that was about it.

4 Q Generally speaking, how long do you recall
5 that the meeting lasted?

6 A 15 minutes.

7 Q Did anyone question Mr. Nussbaum during the
8 meeting or did Mr. Nussbaum simply talk in a
9 narrative way?

10 A It was mostly Mr. Nussbaum talking and the
11 only other things that were said were said by David
12 Margolis and, I believe, Don Flynn from the Secret
13 Service.

14 Q When you physically went over to the west
15 wing of the White House to go into Mr. Nussbaum's
16 office, did you see Mr. Foster's office as you went
17 in?

18 A Yes.

19 Q What do you recall about it?

20 A I just recall that it was -- I could see in
21 and it was a fairly small office.

22 Q Was the door open?

1 A I believe it was -- it may have been open.

2 Q I realize it's a long time ago now, but
3 your sort of mental picture today is that you saw in
4 the office?

5 A Yes.

6 Q Obviously to see in it, the door would have
7 to be open?

8 A Yes, I think it was open when we went up
9 there, and if it was closed then, we did get a quick
10 look in there before we left that day. So on that
11 day I did see in the office.

12 Q Do you recall whether or not a Secret
13 Service guard was posted outside that office when you
14 went up there?

15 A I think there was.

16 Q And you had said earlier today that, at
17 least prior to this time, you didn't have any
18 understanding one way or another whether the office
19 had been sealed; is that correct?

20 A My understanding was that it was not
21 sealed.

22 Q How did you arrive at that understanding?

1 A Because during that meeting with
2 Mr. Nussbaum that issue came up.

3 Q My confusion arises from an error in my own
4 questioning.

5 Prior to the meeting with Mr. Nussbaum, did
6 you have any understanding one way or another about
7 whether or not the office had been sealed?

8 A Okay, no, I did not know one way or
9 another.

10 Q So the first time you remember discussing
11 that topic was in the meeting with Mr. Nussbaum; is
12 that right?

13 A That's right.

14 Q And it's there that you gained for the
15 first time the impression that the office had not
16 been sealed?

17 A That's right.

18 Q How do you recall that that topic, whether
19 or not the office had been sealed, came up?

20 A Because it was decided that we would go
21 through the contents of the office the next day, and
22 someone brought up the point that if we were going to

1 go through the office the next day, then the office
2 should be secured in one way or another so there is
3 nothing disturbed before we get in there.

4 Q Do you remember who brought that point up?

5 A I really don't. My impression is that it
6 was brought up by the Park Police.

7 Q You can't remember specifically, but your
8 general recollection is the Park Police brought it
9 up?

10 A That's correct.

11 Q Did they express any view as to why it was
12 necessary or important that the contents of the
13 office not be disturbed?

14 A Well, it -- I don't know. I mean, I don't
15 recall that we -- it was discussed at that time why
16 it needs to be sealed. It was simply -- it was -- I
17 think it was a request that they made that it be
18 sealed, and, you know, obviously their concern was
19 that nothing be removed from the office or put into
20 the office from the time that we were there and made
21 the decision to go through the office until we
22 finally did the search.

1 Q That was obvious to you in the context of
2 the conversation; is that correct?

3 A That's right.

4 Q And I think you also testified that you
5 learned that the office had not been sealed; is that
6 right?

7 A That's right.

8 Q How did you learn that?

9 A Because when that issue was brought up it
10 was decided that the Secret Service would post an
11 officer there at the office to, you know, not let
12 anybody in the office. And at the same time they
13 would, their technical services people would install
14 a new lock on the door, and that the there would be
15 one key for the door and that would be given to Don
16 Flynn, who is a Secret Service agent at the White
17 House.

18 Q Let me ask you, I'll just refer to your
19 notes which we've been, which you have previously
20 read to us. It says -- and I'm referring now to the
21 bottom half of the page. It says "at approximately
22 12," is the next word "midnight"?

1 A Right.

2 Q Can you read the rest of that sentence to
3 me?

4 A "At approximately 12 midnight, BN," meaning
5 Bernard Nussbaum, "entered office to look for suicide
6 note. No documents removed."

7 Q Okay. And is your testimony today that
8 that's something that Mr. Nussbaum said at the
9 meeting on the 21st?

10 A It is.

11 Q Do you have any specific recollection today
12 of Mr. Nussbaum saying that no documents had been
13 removed?

14 A Yes.

15 Q And it says -- the next sentence says "in
16 the morning of 7/21, 9:00 a.m., reentered office,
17 nothing removed." Does that mean -- as you read this
18 today, does that mean to you that Mr. Nussbaum said
19 he reentered the office the next morning?

20 A Yes.

21 Q And then the next thing says, "contents of
22 wastepaper can was" and you're going to have to help

1 me with that next word.

2 A "Taken out."

3 Q And can you read the rest of that?

4 A "Taken out, but was retrieved and put back
5 into U.S. Secret Service custody."

6 Q That's something also that Mr. Nussbaum
7 said; is that correct?

8 A That's correct.

9 Q It says "at 7:00 a.m." -- the next line on
10 the same document, at 7:00 a.m. I believe it says a
11 secretary went in there?

12 A That's right.

13 Q "(Betsy Pond) went in and straightened up,
14 nothing removed."

15 Again, is this something that you recall
16 that Mr. Nussbaum said?

17 A Yes.

18 Q What -- did you have any personal
19 understanding at the time of why Mr. Nussbaum was
20 saying these things? Was he describing -- let me
21 leave it at that. What was your understanding?

22 A I don't recall if this was in response to a

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1 question. I don't recall specifically, but it's my
2 impression from what I recall of that meeting that
3 this is probably in response to a little bit of
4 questioning by David Margolis, and I say that only
5 because I think he was the only one -- he was the
6 Department of Justice representative, so he was
7 pretty much the only one that would have asked
8 questions to Mr. Nussbaum. And if I can continue.

9 Q Please.

10 A Looking at the notes, it probably -- when
11 we were -- actually the whole purpose of meeting with
12 Mr. Nussbaum that afternoon was to kind of set a
13 schedule for what we would do the next day. It
14 wasn't intended to be an interview of him, although
15 he went into a little bit of narrative about, you
16 know, the financial and personal problems.

17 The whole purpose was to see who it was
18 that we should interview, who would be available and
19 then to look at the office. And you can see here he
20 gave us the name Betsy Pond, secretary, who last saw
21 the victim. So I wrote that down as someone we
22 wanted to interview. Deborah, Mr. Foster's

1 secretary. And then I wrote down "10:00 a.m. on
2 7/22." That's when he said why don't you come back
3 tomorrow at 10:00 and we'll start.

4 Probably after that point, you know, we
5 were talking about at that point that's when the
6 office should be, you know, we should go through the
7 contents of the office.

8 Q "At that point," you mean at that point in
9 the meeting or at that point the next day?

10 A At that point in the meeting it was -- I
11 wrote down "10:00 a.m. on 7/22/93." That's the time
12 that we'll go through the office.

13 Q And I take it at some time in the meeting
14 on the afternoon of the 21st there was a discussion
15 about the procedures for going through the office; is
16 that correct?

17 A No, no, but after this notation is down
18 there my impression is that probably David Margolis
19 said has anybody been in the office, and that would
20 be the next logical question after we talked about
21 searching it, when you say has anybody taken anything
22 out, has anybody gone into the office. And

1 Mr. Nussbaum provided that information which we just
2 went through.

3 And in answer to your last question, there
4 wasn't -- I don't recall any discussion on the 21st
5 as to the ground rules, if you will, for going
6 through the office.

7 Q Let me show you another document, which is
8 a -- appears to be a supplemental criminal incident
9 report prepared by the United States Park Police
10 bearing document production number 29 at the bottom
11 and bearing the legend across the top "7/21/93,
12 Bernard Nussbaum." There is some handwritten
13 annotations on this document, Agent Salter, that were
14 on it at the time they were produced to us. They are
15 not our annotations.

16 And first of all, let me just ask you
17 whether or not you've ever seen this document.

18 MR. FISHMAN: May I look at it first?

19 MR. JOHNSON: Sure.

20 (Witness reviewed the document.)

21 BY MR. JOHNSON:

22 Q Take all the time you like to review it,

1 Mr. Salter. My first question is have you ever seen
2 it before?

3 A I've never seen it before.

4 Q I take it you have -- you played no role in
5 the preparation of this document if you've never seen
6 it before?

7 A That's correct.

8 Q Do you recognize -- well, since it's only
9 half copied, let me just strike the question.

10 Just in an effort to probe your memory a
11 little more, let me read you a sentence from this
12 document, which we have reason to believe was
13 prepared by the Park Police as a result, at least in
14 part, of the same meeting that you've been
15 describing. And it says "on 7/20/93 after Vincent
16 Foster's death became known to him, Mr. Nussbaum
17 responded back to the White House where he went
18 through Mr. Foster's office with Patsy Thomasson and
19 Maggie Williams. Mr. Foster stated that they
20 conducted a brief quick search to see if Mr. Foster
21 may have left a suicide note on his desk. This
22 search lasted from 2200 to 2400 hours. Mr. Nussbaum

1 stated that no documents were removed from the
2 office."

3 And the reason I read that to you,
4 Mr. Salter, is that this references a couple of names
5 that don't appear in your notes, Patsy Thomasson and
6 Maggie Williams. Do have any recollection of whether
7 or not Mr. Nussbaum stated that Patsy Thomasson and
8 Maggie Williams accompanied him into Mr. Foster's
9 office?

10 A From that meeting?

11 Q Yes, sir.

12 A I don't recall. I didn't put that down in
13 my notes, but he may well have, you know, said that.

14 Q It also says -- do you recall any -- in
15 Mr. Nussbaum's statements, do you recall him
16 characterizing how long he or anyone else may have
17 been in Mr. Foster's office on the evening of the
18 20th or early morning hours of the 21st?

19 A I recall that it was just a short period of
20 time each time that he went in there.

21 Q Can you put any more specific time frame on
22 it than that?

1 A Probably, my impression was that he wasn't
2 in there for more than a minute, just real brief,
3 went in, looked on the top of the desk for an obvious
4 suicide note and that was all.

5 Q And then the document I've just read, it
6 says "this search lasted from 2200 to 2400 hours."
7 That would be a two-hour period, if I'm reading the
8 military time correctly, between 10 and midnight on
9 the evening of the 20th. Is that your understanding
10 of what 2200 to 2400 hours means?

11 A Right.

12 Q And just generally you don't recall
13 Mr. Nussbaum or anyone else saying that a search of
14 Mr. Foster's office lasted about two hours on the
15 evening of the 20th, do you?

16 A From that meeting that day, no, I don't
17 recall that.

18 Q And it's your recollection today that
19 Mr. Nussbaum indicated that at least the time that he
20 spent in the office was much less than two hours; is
21 that correct?

22 A That was -- that's what I'm indicating was

1 my impression from that meeting, yes.

2 Q And what was your impression at the end of
3 this meeting on July 21st, 1993 about the question of
4 whether or not any documents had been removed from
5 Mr. Foster's office?

6 A My impression was that there had been
7 nothing removed from the office other than the
8 contents of the trash can, which the cleaning people
9 took out and was retrieved.

10 Q And was that impression based upon what
11 Mr. Nussbaum had said to the group in the late
12 afternoon meeting on the 21st of July, 1993?

13 A Yes.

14 Q Did you have any other source of
15 information on that day about whether or not anyone
16 else had entered Mr. Nussbaum's office on the late
17 evening of the 20th or early morning hours of the
18 21st?

19 A The only other person that I recall that
20 had gone in there was when Mr. Nussbaum told us that
21 Betsy Pond had briefly gone into the office on that
22 morning.

1 Q The next morning?

2 A Right, the morning of the 21st.

3 Q And I take it you've testified earlier that

4 you -- it's possible that Mr. Nussbaum also told you

5 that Patsy Thomasson and Maggie Williams went in, but

6 you don't have any specific recollection of that?

7 A That's true. It's entirely possible that

8 he may have said that.

9 Q So was it your impression at the end of

10 this meeting on the 21st, late afternoon of the 21st,

11 1993, that with the exception of the trash, which

12 you've described that Mr. -- the contents of

13 Mr. Nussbaum's office were exactly as he left them on

14 the afternoon of the 20th when he left the White

15 House?

16 MR. KRAVITZ: You mean Foster's office.

17 BY MR. JOHNSON:

18 Q Thank you very much. Mr. Foster's office

19 were exactly as he left them on the afternoon of the

20 20th?

21 A Yes.

22 Q Up to and including today, have you ever

1 reached a different impression? My last question was

2 referred to your impression at the end of the meeting

3 on the 21st. Now I'm asking the same question

4 bringing you all the way forward in time to today.

5 Do you have any reason as you sit here today to

6 believe that anything had been removed from

7 Mr. Foster's office or placed in there, other than

8 the trash, after the time of his death on the 20th?

9 MR. FISHMAN: Can we go off the record for

10 a second.

11 (Discussion off the record.)

12 BY MR. JOHNSON:

13 Q For purposes of my last question, which

14 relates to knowledge you may have as you sit here

15 today, Agent Salter, why don't you just answer that

16 for the moment yes or no, and then if your answer is

17 yes, we'll try and separate out the basis of that

18 information.

19 A I guess I would have to say yes, and I can

20 just explain real --

21 Q Okay.

22 A Through the investigation that I did after,

1 you know, I guess from July 29th on, and all the
2 people I interviewed, my impression was that nothing
3 was removed from the office. I only know -- I only
4 want to add differently that I've heard on the news
5 that things had been taken out of the office and
6 that's the only other source of information.

7 MR. KRAVITZ: You know you can take that to
8 the bank.

9 THE WITNESS: Well, yeah, so I don't know
10 if there's been an other investigation conducted that
11 I'm not aware of where it's different, but my
12 impression was nothing was removed from the office.

13 BY MR. JOHNSON:

14 Q Okay. And I think I understand that, but
15 excluding things that you may have read in the
16 newspaper or seen on the television, you don't have
17 any basis of information from any source whatsoever
18 that your impression on the 21st that nothing had
19 been removed from Mr. Foster's office was wrong?

20 A That's correct.

21 Q Okay. I'd like to focus on another topic
22 of possible discussion on the 21st that we touched on

1 briefly, and that is the procedures for the review of
2 the contents of Mr. Foster's office. Do you remember
3 any discussion of that topic at all in the afternoon
4 meeting of the 21st?

5 A No, no, I don't recall any.

6 Q Just to let me try and probe it a little
7 bit just to see if anything comes back to mind. Do
8 you recall any discussion, for example, on the topic
9 of who would review the contents of Mr. Foster's
10 office, if anyone?

11 A It was my impression that we, meaning the
12 Park Police investigators and agents from the FBI,
13 would have access to the office and would review the
14 documents.

15 Q Okay. Just again in an effort to maybe
16 probe a little deeper, what understanding, if any,
17 did you have about the role of Mr. Margolis and
18 Mr. Adams in the review of the contents of
19 Mr. Foster's office?

20 A I don't think -- my impression was that
21 they would not have a role in actually conducting the
22 review of the items in the office. Their role was to

1 work out with the people at the White House, you
2 know, the procedures on who we would have access to
3 to interview. And I don't really -- at that time, I
4 don't really think that they would have any role in
5 the review of the office at all.

6 Q Give me just a second if you would, Agent
7 Salter.

8 (Discussion off the record.)

9 BY MR. JOHNSON:

10 Q Let me show you, Mr. Salter --

11 MR. FISHMAN: We have several copies.

12 MR. JOHNSON: That would be helpful.

13 BY MR. JOHNSON:

14 Q A document which bears FBI production
15 number 00000076, 77 and 78, and it appears to be a
16 teletype or other form of electronic transmission
17 dated July 23rd, 1993. And my question is -- take as
18 much time as you want to read it, but my first
19 question is have you ever seen this before?

20 A Yes, I've seen this before.

21 Q What role, if any, did you play in the
22 preparation of this -- is it a teletype?

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1 A Yes, teletype.

2 Q What role, if any, did you play in the
3 preparation of it?

4 A Let me just look at it real quick.

5 Q Sure, take your time.

6 (Witness reviewed the document.)

7 A I believe that this was prepared by John
8 Danna.

9 Q Okay. And I think it was your earlier
10 testimony that Mr. Danna was absent for at least some
11 part of the meeting on the afternoon of the 21st. Is
12 that your recollection?

13 A Right, right.

14 Q Did you ever have any conversations with
15 Mr. Danna about what was discussed in Mr. Nussbaum's
16 office during that part of the meeting in which he
17 was absent?

18 A Yes, I told him what was discussed.

19 Q Let me direct your attention to the middle
20 of the second page, which bears document production
21 number 77, and I'll just read it for the record and I
22 want to ask you one or two brief questions about it.

1 It says "an initial meeting was held with
2 White House Counsel Bernard Nussbaum, at which time
3 it was agreed that the victim's office, which is
4 located adjacent to Mr. Nussbaum's, would continue to
5 be sealed by the U.S. Secret Service until 10:00 a.m.
6 on 7/22/93, at which time Margolis and Adams would
7 conduct a preliminary examination of documents
8 located within the office."

9 Do you see that?

10 A I do.

11 Q Does that refresh your recollection at all
12 about what, if any, role Agent Margolis and Adams --

13 MR. FISHMAN: I'm sorry. Not agent.

14 BY MR. JOHNSON:

15 Q I mean Mr. Margolis and Mr. Adams would
16 play in the search of the contents of Mr. Foster's
17 office?

18 A Actually no, it really doesn't. It was my
19 impression then and it's my recollection now that the
20 review of the documents in the office would be
21 conducted by -- would be mostly conducted by the
22 investigators, the Park Police detectives and the FBI

1 agents.

2 Q Was it your impression that the Park Police
3 and the FBI agents would be granted access to review
4 the documents in the office on the following day?

5 A Yes.

6 Q Did you have any understanding at all that
7 there would be any group of documents that you would
8 not be allowed to review?

9 A I don't really recall that coming up on
10 that day, and I guess I wasn't really thinking along
11 those lines, that there would be things that we
12 wouldn't be able to review. As far as what's in here
13 about how privileged documents would be identified
14 and segregated, I mean, I would -- I believe that
15 probably if John Danna wrote this he got that
16 information directly from Margolis and Adams.

17 Q You don't have any recollection about that?

18 A No, I don't.

19 Q And just let me just ask you in a
20 conclusionary way, was it your understanding when you
21 left the meeting in Mr. Nussbaum's office on the
22 21st, that the Park Police and the FBI would be

1 allowed to review the contents of Mr. Foster's office
2 the following day?

3 A Yes.

4 Q What else, Mr. Salter, if anything, do you
5 recall about the meeting in Mr. Nussbaum's office on
6 the 21st? I'm actually finished with that document.

7 A Okay. I really don't recall anything else.

8 Q Okay. Did you go home afterwards?

9 A I did.

10 Q Did you have any other discussions on that
11 day that we haven't talked about with representatives
12 of Park Police?

13 A The only other discussion was on the way
14 out of the west wing we kind of just stopped for a
15 second there and Hume, Markland, Margolis and John
16 Danna and Dennis Condon, we kind of just stopped
17 there for a second to say that we would meet at the
18 same location, you know, there at the southwest gate
19 the next morning, and that when interviews would be
20 conducted, we would pair up one of the FBI agents
21 with one Park Police detective. There would be four
22 of us so there would be two pairs of interviewers,

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1 basically, and we would do the interviews that way.
2 I think that was all.

3 Q Okay. And I take it you returned to the
4 White House complex at 10:00 a.m. the next morning;
5 is that correct?

6 A Yes.

7 Q Between your departure from the complex
8 late in the afternoon or early evening on the 21st
9 and your return on the next morning, did anything
10 relating to Mr. Foster's death or the investigation
11 into that death occur that we haven't covered?

12 A No.

13 Q Just the end of the workday, you just went
14 home?

15 A Right.

16 Q What do you recall about -- strike that.
17 What happened when you returned at 10:00
18 the next morning?

19 A We, I believe there were five of us,
20 Markland, Hume, Condon, me and Margolis, kind of met
21 and were taken by Secret Service agent who was
22 basically assigned to escort us, I think that was

1 Paul Imbordino or Don Flynn, it was one of those two,
2 they traded off. We went to an office in the west
3 wing -- I don't know whose office it was -- and we
4 waited there.

5 Q What were you waiting for?

6 A I think that we were -- we expected to
7 interview at least Betsy Pond and Deborah Gorman --
8 Gorham, and maybe some other people that worked with
9 Mr. Foster, and then we would go through the contents
10 of the office. Four of us waited in the office while
11 Margolis, David Margolis, went somewhere else. And I
12 think we were just waiting until we could do the
13 interviews, until we would have access to the
14 individuals and we could start.

15 Q Do you recall how long you waited?

16 A We waited there more than two hours. And,
17 if I recall correctly, a couple times David Margolis
18 came back down to the office and told us it will be
19 just a little while longer and then we'll start. We
20 waited there until about I think it was around noon.

21 Q And what happened at noon?

22 A I think it was David Margolis, maybe

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1 Mr. Nussbaum, came down to the office and said we can
2 start at about 1:00, why don't you take an hour and
3 go downstairs to the snack bar and get something for
4 lunch and then come back up and we'll be ready to go
5 at 1:00.

6 Q When you said Mr. Margolis and/or
7 Mr. Nussbaum said that you could start at about 1:00,
8 you could start what at about 1:00?

9 A Interviews.

10 Q Did you sit in this roughly two-hour time
11 period in the same room with the Park Police?

12 A Yes.

13 Q Did anyone during this two-hour time period
14 express frustration over the period of time you had
15 spent waiting to interview people?

16 A Yes.

17 Q What do you recall about that?

18 A Well, there was just some frustration as to
19 why we were just waiting there, and, you know, there
20 was discussion as to whether we should just leave if
21 we weren't going to have access, there is no sense in
22 waiting there indefinitely. And, you know, that's

1 generally it.

2 Q Was Mr. Margolis present during these
3 discussions about whether or not you should just
4 leave?

5 A No, I don't think so. I may have brought
6 that up to him, and if not, I think when he came back
7 in the room he obviously was aware that we were
8 waiting there a long time, and just said hang in
9 there a little longer and we'll get this straightened
10 out and you can get started. And that was enough for
11 us. We didn't bring up the stuff about, you know,
12 should we leave or not again.

13 Q And when you say there were discussions
14 about whether or not you should leave, I'd like to
15 nail down sort of the tone of that as you recall it.
16 There's one way to leave, which is kind of storming
17 out in anger, and there is another way to leave,
18 which is to say why don't we just come back, this is
19 a waste of time, why don't we come back later. And
20 maybe there are others. Was it any of those two?

21 A Yeah, I don't want to necessarily speak for
22 the other people because I think it was probably my

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1 idea and it was probably a little bit of frustration
2 that there was no sense in just being kept in this
3 room waiting for hours. You know, we could simply --
4 I don't want to use the words storm out, but leave.

5 Q Okay. Did you or anyone else express --
6 strike that.

7 Was there any discussion on the topic of
8 whether or not this hadn't all been worked out the
9 preceding evening? And let me just amplify a little
10 bit. Did anyone say why are we waiting around, we
11 worked this out yesterday, something like that?

12 A Yes, that was my impression that -- again,
13 I couldn't understand why we were waiting because I
14 thought we were all set, we were going to do
15 interviews, we were going to go through the office,
16 and then I just didn't know what the delay was.

17 Q During this morning delay on the 22nd of
18 July, did anyone express the view that the
19 investigation was being impeded by the delays?

20 A I don't want to say that it was being
21 impeded, and I don't want to give the impression that
22 there was sort of obstruction of justice type thing.

1 That wasn't my impression. It was more that it was
2 just -- inconvenienced isn't the right word, but it
3 was just they weren't really being as cooperative as
4 they could be.

5 Q And you remember that being discussed or
6 was that just your impression?

7 A I think that was -- that was discussed, and
8 it was also, you know, that was my thoughts on the
9 situation.

10 Q And when you say they weren't being as
11 cooperative as they could be, who do you mean?

12 MR. FISHMAN: If we could narrow this
13 down -- I have no objection to you asking what was
14 discussed, but the extent that he speculated or
15 reached impressions about what may or may not have
16 motivated people here, I don't think that that's
17 entirely appropriate.

18 MR. JOHNSON: I think he said it was
19 discussed.

20 MR. FISHMAN: Well, I just want to make
21 sure that the follow-up question is limited to that.

22 THE WITNESS: Well, it was -- I think it

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1 was discussed and it was clear to everybody there
2 that the reason for the delay was not the -- that it
3 was the people at the White House that were the cause
4 of the delay because certainly the Park Police was
5 ready to go, the people from the Bureau were ready to
6 go and Margolis seemed to be anxious to get started
7 also.

8 BY MR. JOHNSON:

9 Q So when you said there was discussion that
10 they weren't being cooperative, the "they" is the
11 White House was not being cooperative; is that
12 correct?

13 MR. KRAVITZ: I think he said they were not
14 being as cooperative as they could be.

15 MR. JOHNSON: Fine.

16 THE WITNESS: I guess that would be, yeah,
17 that's correct.

18 BY MR. JOHNSON:

19 Q Was there any discussion about whether or
20 not the witnesses who you wished to interview would
21 be experiencing a fading memory with the passage of
22 time?

1 A No, that wasn't a concern.

2 Q During the course of this morning did
3 Mr. Margolis himself ever express any frustration at
4 the delay?

5 A Yes. When he was down in the office with
6 us he, I think he expressed his opinion that he also
7 wanted us to be able to get started, and he -- I only
8 recall his general feeling on it was he's doing the
9 best he can and they're trying to get whatever worked
10 out that they have to get worked out.

11 Q When you say he's trying to do the best he
12 can, who do you mean, Mr. Margolis?

13 A Yes.

14 Q In your observation of his demeanor, was he
15 agitated or annoyed or not? By "he" I mean
16 Mr. Margolis.

17 A I didn't get the sense that he was
18 agitated. He was -- I think he was concerned. I'll
19 leave it at that.

20 Q Now, I think you said at some point in time
21 Mr. Margolis or Mr. Nussbaum suggested that you go to
22 lunch; is that correct?

1 A Right.

2 Q And you did go to lunch?

3 A We did and went downstairs.

4 Q What happened after lunch?

5 A Came back up to the same office and we
6 waited just a little while longer, and then we -- we
7 interviewed, did a couple of interviews.

8 Q Just so my mind is clear, I take it at some
9 point later in that day you were also present during
10 the search of Mr. Foster's office?

11 A I was.

12 Q And the interviews that you were just
13 describing, were they before or after that search?

14 A Before.

15 Q Do you recall who you interviewed?

16 A I do. I interviewed -- if I can look at my
17 notes.

18 Q Please.

19 A I interviewed Betsy Pond or Deborah Gorham
20 I've got notes here where I interviewed Deborah
21 Gorham.

22 Q Why don't we see whether we're looking at

1 the same document and we'll try and identify them for
2 the record. What you are looking at is -- the first
3 page is, I take it, an FBI form that says "universal
4 file case number" and then there is a handwritten
5 number after that; is that correct?

6 A That's correct.

7 Q And down on the byline it says "Salter,"
8 which, I take it, refers to you?

9 A Right.

10 Q And at the bottom it says "original notes
11 re: interview of," and it says "Deborah Gorham"; is
12 that correct?

13 A That's correct.

14 Q And behind that there's a handwritten
15 document which says at the top, if we're looking at
16 the same ones, "Betsy Pond," is that "DMC"?

17 A Right.

18 Q Does that refer to Agent Condon?

19 A Yes, it does.

20 Q And then it says "Deborah Gorham" with some
21 initials next to that?

22 A That's my initials.

1 Q And then and it's dated 7/22/93; is that
2 correct?

3 A That's correct.

4 Q And are these your notes of your interview
5 with Ms. Gorham?

6 A They are.

7 MR. FISHMAN: Can we go off the record.
8 (Discussion off the record.)

9 BY MR. JOHNSON:

10 Q During an off-the-record conversation,
11 counsel helpfully pointed out that on the first page
12 of this document that we've been referring to,
13 opposite the entry "universal file case number,"
14 there is a number at the end that says "Sub C-25" and
15 that would refer to your notes -- that would be a
16 descriptive entry of your notes of your interview
17 with Ms. Gorham; is that correct?

18 A That's correct.

19 Q And as I see these notes, they are two
20 pages of handwritten notes?

21 A Yes.

22 Q Who was present during your interview with

1 Ms. Gorham, if you can tell?

2 A I think it was Detective Markland who was
3 with me and Captain Hume who was with Dennis Condon.
4 So during this interview it was me and Pete Markland.

5 Q Were there any other White House personnel
6 present other than Ms. Gorham?

7 A Yes. I believe it was Steve Neuwirth,
8 who's an attorney the White House counsel staff, who
9 sat in during the interview with us.

10 Q What was your understanding of
11 Mr. Neuwirth's purpose in sitting in on the interview
12 with you?

13 A I don't know what his -- what really his
14 purpose was. That was just part of the -- before we
15 started the interviews, that was the ground rules
16 that were -- that was brought up, that they would
17 have one of their attorneys sit in on all interviews,
18 which --

19 MR. FISHMAN: I don't want to necessarily
20 get into what his reaction to that was, but to the
21 extent that those were the ground rules, I just
22 didn't know where he was going with the rest of his

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1 answer.

2 MR. JOHNSON: Okay.

3 BY MR. JOHNSON:

4 Q Okay. I don't mean to oversimplify it.
5 You were told by whoever set the rules that
6 Mr. Neuwirth was going to sit in on these interviews?

7 A Right.

8 Q Who told you that?

9 A Probably David Margolis.

10 Q Did you object to that?

11 A No.

12 Q At the time of this interview of
13 Ms. Gorham, did you personally know whether or not
14 Steve Neuwirth would also be a witness to be
15 interviewed?

16 A Yes.

17 Q And was he someone that you or an agent
18 intended to interview, to the best of your knowledge?

19 A Yes. And I want -- I guess I want to be
20 specific, not as a witness to anything, but just as
21 somebody who knew Mr. Foster.

22 Q The same document that we've been referring

1 to as your notes of your interview with Mr. Gorham,
2 which we've previously identified, there appears at
3 the bottom left-hand page in sort of a distinguishing
4 block two names, Tom Castleton and Marlene, looks
5 like MacDonald?

6 A Right.

7 Q That's in your handwriting as well, I take
8 it?

9 A Yes, it is.

10 Q What do you recall today about why you
11 wrote those names down there?

12 A I think they were two other people that
13 were to be interviewed also.

14 (Discussion off the record.)

15 BY MR. JOHNSON:

16 Q Mr. Neuwirth, I take it, was physically
17 present throughout the entire interview; is that
18 correct, to the best of your recollection?

19 A Yes.

20 Q Did he interfere in any way with your
21 questioning or the Park Police questioning of
22 Ms. Gorham?

1 A No.

2 Q Did his presence in any way limit your
3 questioning of them?

4 A No.

5 Q I may be misreading you, but I sense some
6 hesitation in your answers. Am I missing something
7 here?

8 A No. I was just trying to recall -- no, he
9 didn't interfere at all.

10 Q Did anyone ever express annoyance or
11 dissatisfaction with the presence of White House
12 counsel in the Park Police and FBI interviews?

13 A No, I don't think so.

14 Q And your testimony is that that did not
15 interfere with your investigation, his presence?

16 A No.

17 Q Would you have preferred that he not be
18 present?

19 MR. FISHMAN: That I'm going to object to.
20 Agents -- to the extent that he may have -- may or
21 may not have preferred, that's the sort of inquiry
22 that I don't think is appropriate for an agent

1 conducting an investigation. If he made his
2 objection known or did not --

3 BY MR. JOHNSON:

4 Q I'll rephrase it. Did you ever express to
5 anyone or did anyone ever express to you a preference
6 that White House counsel not be present during these
7 interviews?

8 MR. FISHMAN: Again, to the extent that he
9 may have expressed -- I don't know what the answer to
10 the question is. To the extent he may have expressed
11 it to his supervisor or other people within the
12 Bureau, again, I don't think that would have been
13 appropriate inquiry. To the extent he might have
14 expressed it to White House personnel or to the
15 interviewee, that might be appropriate.

16 MR. JOHNSON: I'm not sure about the last
17 one. I think if he complained up the chain about the
18 presence that that's just, you know, just a fact of
19 what occurred.

20 MR. FISHMAN: Well, it is a fact of what
21 occurred -- it would be a fact of what occurred, if
22 it occurred, but it would also, it would also be the

1 kind of, the kind of discussion between an agent and
2 his supervisor that I do not believe is the
3 appropriate --

4 MR. JOHNSON: Before we battle over that,
5 let's see whether or not it happened. Because the
6 question, which he can answer yes or no, is whether
7 or not he ever expressed to anyone or anyone ever
8 expressed to him a preference that the White House
9 counsel not be present, and --

10 MR. FISHMAN: I mean -- again, I'm not sure
11 that that would -- I mean -- can we go off the record
12 for a second.

13 MR. JOHNSON: Yes.

14 (Discussion off the record.)

15 (Recess.)

16 (The reporter read the record as requested.)

17 THE WITNESS: Okay. I didn't have any, I
18 didn't see any problem with having, you know, the
19 attorneys on the staff sit in on the interviews. And
20 we thought that that would be appropriate because if
21 there was a problem, certainly the people at the
22 White House would need to be aware of it also.

1 When the interviews were finished, I
2 certainly I don't think Neuwirth did anything in the
3 interviews I was in to interfere. He just sat in the
4 corner and scribbled notes. But it was odd that in
5 interviewing Deborah Gorham that; we asked pretty
6 specific questions, you know, and at that point it
7 was -- it appeared that it was a suicide, so we were
8 asking questions like was there any alcohol or drug
9 abuse problems, was there any personal problems that
10 you're aware of, and asking her point blank was there
11 anything that you can tell us that would be important
12 here as to why the man would kill himself. And the
13 answer to all of those was no.

14 And then we finished the interview and some
15 time -- you know, a short while later she came back
16 in with -- into the office where Markland and I were
17 with Neuwirth and it appeared to me that she had
18 talked to Neuwirth or somebody out there about
19 something and then they brought her back in here to
20 talk some more.

21 And the next page it says -- I wrote
22 "Gorham 2" at the top because that's where you

1 start, at 2:52 p.m., although the start time for the
2 interview wasn't on here, and she told us how on the
3 Thursday before his body was found she received three
4 calls from -- two from his wife and one from his son,
5 and each time they were asking her how's he doing,
6 you know, clearly meaning what's his mental state, is
7 he hanging in there today. I thought those were
8 questions that, you know, she certainly should have
9 told us in the first interview and so when she
10 said -- when she said no, there was nothing unusual,
11 you know, this had to be in her mind.

12 This was only a couple days before and
13 that's kind of significant when family members are
14 calling up saying how's he doing repeatedly. So I
15 don't know -- and I don't know if it's just, you
16 know, she may -- she didn't want to tell us or I
17 don't know if she didn't tell us because she was a
18 little intimidated by having Neuwirth sit in on the
19 interview. And we discussed that after she left,
20 after she told us this. I know I talked to --
21 Markland and I talked briefly about it, and basically
22 we said that we didn't understand why she didn't tell

1 us that right off the bat because that was something
2 that we clearly asked her about.

3 BY MR. JOHNSON:

4 Q And you and Mr. Markland discussed the
5 possibility that a witness in this case, Ms. Gorham,
6 had been intimidated by the presence of Mr. Neuwirth?

7 A Right.

8 Q When you say "intimidated" by Mr. Neuwirth,
9 you don't mean threatened or anything of that kind,
10 just that his presence may have had a chilling
11 effect? Am I understanding you correctly?

12 A Correct.

13 Q Any other discussions at all about the
14 presence of White House counsel other than the one
15 you've just described in these interviews?

16 A I think that probably -- I'm pretty sure
17 that at the conclusion of the interviews when Dennis
18 Condon and Captain Hume and Markland and I kind of
19 talked about the results of our interviews, we
20 brought that up and we asked them if they thought it
21 had an effect on their interview. And I think at
22 that time we all kind of thought that maybe that

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1 wasn't such a good idea to have them sit in on it.

2 Q For the reason that you've stated, that
3 maybe it would have a chilling effect on the
4 witness --

5 MR. FISHMAN: Let me stop, and in some ways
6 I'm a little -- I mean, we've gone into this several
7 times, I think, and I don't believe this is
8 appropriate, an appropriate line of inquiry, what his
9 feelings were --

10 MR. JOHNSON: He was describing a
11 discussion that he had with Mr. Condon and others and
12 I think he said they discussed that maybe it wasn't
13 appropriate to have them in there.

14 BY MR. JOHNSON:

15 Q And I'm asking you not your personal
16 feelings, but what was discussed. Is that clear
17 enough?

18 MR. FISHMAN: Well, no, I don't think so.
19 I mean, I'm not sure that -- well, first of all, I'm
20 not sure it's entirely clear from the question, and I
21 mean, the issue of whether it was discussed among law
22 enforcement officers is also part of our objection.

1 I mean, we're asking -- you are asking for agents to
2 speculate about law enforcement techniques and so
3 forth, and how they should have conducted
4 themselves. And I'm not sure that that's appropriate
5 with line law enforcement agents.

6 MR. JOHNSON: I think maybe we've -- we're
7 saying the same things to each other that we said
8 before and I'll try not to repeat it. I don't see
9 this particular question as necessarily implicating
10 any global law enforcement issues. I think it goes
11 to the heart of whether or not on the 22nd the White
12 House was cooperating or less than cooperating with
13 the investigation that we're specifically directed to
14 inquire about.

15 And I don't know how to inquire of it. If
16 I can't inquire what he thought and I can't inquire
17 what they said to each other, then it seems to me
18 that the inquiry is left to ask whether or not they
19 ever actually complained to the White House about
20 it. And if they didn't, I can only draw the
21 conclusion that they weren't thrilled and I don't
22 know how to break the circle on that.

1 MR. FISHMAN: I guess the answer is that it
2 is perfectly appropriate for the committee to inquire
3 into the facts of what occurred. To the extent that
4 inferences are to be drawn from those facts or
5 opinions given about what those facts mean, that is
6 appropriate for certain witnesses. It may be
7 appropriate for members of the committee to do it, it
8 may be for the committee to do in a report. I do not
9 believe that it is appropriate to ask the agents to
10 draw inferences or give opinions on the facts that
11 occurred and their own mental processes in evaluating
12 those facts.

13 That's precisely the concern that we have
14 in having Congressional inquiry into the thought
15 processes of agents. You have -- I mean, you are
16 perfectly free to explore what occurred with this
17 witness, but I don't think it's appropriate to ask
18 the witness what his inferences were from the facts
19 or what the inferences that were discussed among
20 other law enforcement officers were from those facts.

21 MR. JOHNSON: Well --

22 MR. FISHMAN: That's precisely the chilling

1 effect that we are worried about, that agents will be
2 called to account for their thought processes in a
3 way that has been long-standing policy of the
4 Department of Justice for years through several
5 administrations, regardless of who was doing the --
6 who was doing the inquiry and who was in the
7 executive branch, that those sorts of inquiries into
8 the thought processes of line agents has -- can have
9 a chilling effect on effective law enforcement if
10 agents are caused to explain how they thought about
11 things in this context.

12 MR. JOHNSON: Agents testify all the time
13 about how they felt about things. It is not -- but
14 if this were an obstruction of justice trial and I
15 were to ask him whether by such-and-such a statement
16 by a person he was led to believe X or whether or not
17 under those circumstances wouldn't you have expected
18 him to tell you Y, no question, directly pertinent,
19 admissible, it's at the core of the thing.

20 And that's all I'm -- this is not an
21 obstruction of justice investigation, but it is not
22 wholly unrelated to that. And I'm just really trying

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1 to ask him under the circumstances whether he felt
2 misled or interfered with. And I just, I guess maybe
3 we're talking past each other. I have difficulty
4 seeing how that's different in this circumstance than
5 it might be if he were on the witness stand in a
6 different kind of proceeding.

7 MR. FISHMAN: Well, I think we may have
8 different -- I don't know that it's worth exploring
9 our different views of whether or not it would be
10 admissible and under what circumstances.

11 MR. JOHNSON: I tell you what. Let's do
12 this. Let's just move on.

13 MR. FISHMAN: Okay.

14 BY MR. JOHNSON:

15 Q I take it later that morning -- or I'm
16 sorry, later that early afternoon of the 22nd you
17 also interviewed other White House personnel; is that
18 correct?

19 A Yes.

20 Q And you're referring to your notes there of
21 the interviews that you conducted on that day,
22 Mr. Salter, are you not?

1 A Yes.

2 Q By referring to those notes, which we've
3 previously identified, can you just tell us who else
4 you interviewed on that day?

5 A Tom Castleton, Linda Tripp, Steve Neuwirth,
6 and that's all.

7 Q Okay. I have notes of an interview in this
8 sequence that appears to be an interview of Betsy
9 Pond. Do you also have those?

10 A Yes.

11 Q I take it those are not your notes?

12 A No, they're not. These are Dennis Condon's
13 notes, even though the form of the front has my name
14 on it. I probably just wrote my name on it, but this
15 is Dennis Condon's handwriting on the bottom. This
16 is his handwriting for the notes.

17 Q And you weren't physically present during
18 the interview of Ms. Pond?

19 A I was not.

20 Q During your interview of Mr. Neuwirth on
21 that day, did any representative of the White House
22 counsel's office sit in on that interview, other than

1 Mr. Neuwirth, of course?

2 A No.

3 MR. JOHNSON: Why don't we -- Counsel, if
4 it's okay with you, why don't we stop now and take a
5 short lunch break and come back.

6 And when we come back, Agent Salter, I want
7 to pick up with the topic of the review of the
8 contents of Mr. Foster's office on that day.

9 THE WITNESS: Okay.

10 (Whereupon, at 12:03 p.m., the deposition
11 was recessed, to be reconvened at 12:30 p.m. this
12 same day.)
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AFTERNOON SESSION (12:50 p.m.)

Whereupon,

SCOTT SALTER

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION (Continued)

BY MR. JOHNSON:

Q Mr. Salter, before we broke for lunch I think we'd been discussing the interviews that you conducted together with members of the Park Police on the morning of the 22nd of July, and I think the last thing that we had done is that you read to me from your notes the names of the people who were interviewed; is that correct?

A That's right.

Q What's the next thing that you recall happening on the early afternoon of the 22nd of July 1993?

A After we finished the interviews it was -- we were to move to Mr. Foster's office and examine the -- just go through the contents of the office.

Q Okay. Do you have any recollection today

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about what time of day you did that?

A I think it may have been 4:00 or so. I know it was fairly late in the afternoon.

Q Prior to physically going into Mr. Foster's office, were you present for any discussions about the conditions of the review or how the review of the contents would be conducted?

A No. I wasn't there for how the search of the office was to proceed. No, I wasn't there for that.

Q Okay. So actually the next thing that you recall happening on that day is the actual review of the documents in Mr. Foster's office; is that correct?

A That's correct.

Q Who was present, to the best of your recollection, for that review?

A I was there with Dennis Condon, Charles Hume, Pete Markland, David Margolis, Roger Adams from the Department of Justice, Don Flynn and Paul Imbordino from the Secret Service. Then there was Bernard Nussbaum, Steve Neuwirth, Cliff Sloan and I

1 think there was an attorney for the Foster family.
2 And there may have been two other people from the
3 White House there who I can't recall their names
4 right now.

5 Q And all of those people were physically
6 present in Mr. Foster's office; is that right?

7 A Yes. The exception that the Secret Service
8 guys, Flynn and Imbordino were in and out a couple
9 times.

10 Q Where did you personally sit, if you did
11 sit, in the office?

12 A I was -- all of the White House staff
13 people were on the opposite side of the desk from
14 where I was. I was seated -- I was facing
15 Mr. Foster's office desk a little bit to the right
16 and opposite his desk.

17 Q When you say all the White House staff
18 people were on the opposite side, do you mean behind
19 Mr. Foster's desk?

20 A That's correct.

21 Q And that would be Mr. Nussbaum?

22 A Yes.

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1 Q Mr. Sloan?

2 A Yes.

3 Q And Mr. Neuwirth?

4 A Yes.

5 Q Anyone else, to the best of your
6 recollection?

7 A There was another person there from the
8 White House, and I -- I remember his face and I
9 interviewed him later, but I can't remember his name
10 right now. And I have it listed on a report. I
11 think I listed everyone that was there.

12 Q Is it Mr. Livingstone?

13 A No.

14 Q Counsel just reminded me it may have been
15 Mr. Burton; is that correct?

16 A Charles Burton.

17 Q William Burton?

18 A Okay.

19 MR. KRAVITZ: Actually, I think it's
20 Charles William Burton, but everyone calls him Bill.

21 THE WITNESS: Right, that's who it was.

22 BY MR. JOHNSON:

1 Q There was just one Mr. Burton present?

2 A Right.

3 Q Were you seated, for lack of a better
4 descriptive term, in the front row, just opposite
5 Mr. Foster's desk, but up front?

6 A No, I was kind of in the back. There's
7 a -- from where I was standing, behind me there was a
8 fairly small couch and that was against the back
9 wall. In front of me, I think kind of to my right,
10 was someone else, it may have been Captain Hume, and
11 then a little bit to the left was David Margolis and
12 he was sitting in a chair right in front of the desk.

13 Q Was Mr. Adams also present, Roger Adams?

14 A Yes, he was.

15 Q Where was Mr. Adams seated, if you recall?

16 A I think he was next to David Margolis.

17 Q From where you were seated could you
18 observe everything that was happening in the office?

19 A Yes.

20 Q What, if anything, did Mr. Nussbaum say at
21 the beginning of the review of the contents of the
22 office?

1 A He said that he would look at the documents
2 that were in the office and determine if they were --
3 if they pertained to Mr. Foster's work for the
4 President, if they were his official work papers that
5 I understood would be privileged-type documents that
6 we would not see, or if -- or if they were
7 Mr. Foster's personal documents, or if they were
8 documents that would be pertinent to the death
9 investigation.

10 Q Did Mr. Nussbaum say -- what was your
11 impression at that time about who would determine
12 what documents would be pertinent to the death
13 investigation?

14 A Well, once this review started, it was
15 clear that it would be Mr. Nussbaum and the people
16 from the White House that would decide that.

17 Q When you say "it was clear," do you mean it
18 was clear to you or did anyone actually say that?

19 A Well, it was clear to me, and I think to
20 everybody else in the room.

21 Q Now, you testified earlier this morning
22 that at the conclusion of the meeting on the 21st you

1 were under the impression that the FBI and the Park
2 Police were going to be reviewing the contents of
3 Mr. Foster's office; is that correct?

4 A Yes, I testified that that was -- that's
5 what I believed would happen.

6 Q And at the actual review of the office
7 contents on the 22nd, that did not happen; is that
8 correct?

9 A That's correct.

10 Q Were you surprised?

11 A Yes.

12 Q Was anyone else, to the best of your
13 knowledge -- I'm not asking you to read minds -- did
14 anyone else express surprise or concern during that
15 meeting about the way the review was going to be
16 conducted?

17 A David Margolis did.

18 Q What do you recall that Mr. Margolis said?

19 A Well, I know that he -- in talking to
20 Mr. Nussbaum while he's reviewing the documents, he
21 just indicated that this review of the documents was
22 not going by the plan or the ground rules that had

1 been set up.

2 Q As best you can recall, Mr. Margolis's
3 words were that it wasn't going by the plan or the
4 ground rules that had been set up. Do you recall
5 anything more about that?

6 A I just -- I know that he brought that up a
7 couple of times. I recall one specific time when
8 Mr. Nussbaum was looking at a piece of paper and
9 trying to decide whether or not it's pertinent and
10 whether it would be a document that the investigators
11 would look at, and I know at one point Mr. Margolis
12 said how do we know whether or not it's pertinent if
13 we don't get to see it. That's about as close as I
14 can come to really recalling a specific statement
15 that he made. There were other --

16 Q What was Mr. Nussbaum's response to that
17 statement?

18 A I don't really know what his -- I can't
19 really recall what his response was other than he
20 wasn't persuaded by the argument. And I think his
21 only response was that he would -- that he would be
22 able to decide whether or not it's pertinent.

1 Q That -- by "he" you mean he, Mr. Nussbaum,
2 would be able to decide?

3 A That's correct.

4 Q When Mr. Margolis said, in words or
5 substance, how do we know whether or not it's
6 pertinent if we don't get to see it, was it your
7 impression that Mr. Margolis was complaining about
8 the conditions of the document review?

9 A Yes.

10 Q What was his tone of voice?

11 A He was a little exasperated, I think.

12 Q Why do you think that?

13 MR. FISHMAN: If it's tone, then I have no
14 objection.

15 MR. JOHNSON: That's the --

16 MR. FISHMAN: I'm just --

17 MR. JOHNSON: That's a good clarification.

18 BY MR. JOHNSON:

19 Q Was it something about his tone of voice
20 that led you to believe that he was exasperated?

21 A Yes.

22 Q Did anyone in that meeting ever express any

1 further concern about the conditions of the document
2 review that you can recall?

3 A I think any concern that was voiced was
4 brought up by Mr. Margolis.

5 Q Okay. What do you recall, Mr. Salter,
6 about how Mr. Nussbaum conducted the review?

7 A He sat at the desk -- he sat at the chair
8 at the desk and went through all of the documents,
9 all of the papers that were on top of the desk.

10 Q Let me stop you right there. When you
11 walked into the office to begin the search, were you
12 among the first people in there?

13 A There were a whole group of us that kind of
14 walked in together and found our places in the room.

15 Q But the search had not begun by the time
16 you entered the room; is that correct?

17 A That's correct.

18 Q The documents that you were just referring
19 to that Mr. Nussbaum went through, when you entered
20 the room, were they already on the desk?

21 A It was -- yes, it was my impression that
22 they were as they were probably when Mr. Foster last

1 left the office.

2 Q You didn't have the impression as you
3 entered the room that someone had placed them on the
4 desk, but rather that's how Mr. Foster had left them?

5 A That's correct.

6 Q And I interrupted you, I apologize. You
7 that said Mr. Nussbaum began by going through the
8 documents on the desk?

9 A Right.

10 Q What do you mean by "going through"?

11 A He would pick up each -- if there was,
12 like, a small stack of papers, he would look at each
13 piece of paper, read through it quickly and turn it
14 over, go to the next one.

15 Q From where you were sitting could you see
16 the documents he was reviewing?

17 A Yes. Yes, I could clearly -- I couldn't
18 see what was on them, but I could see what he was --

19 Q You could see that they were documents?

20 A That's an important question later, I
21 guess.

22 Q I think there's an event that we can just

1 skip to.

2 A I could see that he was picking up a piece
3 of paper and turning it over as opposed to -- but I
4 could not read what was on it.

5 Q At some point in time, did you stand up
6 during the course of this meeting?

7 A Yes.

8 Q Tell us what happened.

9 A The room was -- is fairly small.

10 Mr. Foster had a small office over there, and it was
11 kind of -- rather crowded, it was a lot of people
12 there. And I think I was seated next to Pete
13 Markland from the Park Police, who is a big guy, and
14 it wasn't a whole lot of room on the couch. And I
15 chose to stand and I was standing there for a while.
16 And, of course, everyone's attention was focused on
17 Mr. Nussbaum, we just all watched to see as he
18 proceeded with his search. And then, I guess going
19 along with the whole tone of what had been happening
20 the whole morning, Cliff Sloan, one of the lawyers
21 back there apparently thought I was trying to peek at
22 what was, at the documents that was on there, and he

1 kind of just looks at me and says excuse me, you
2 aren't standing there so you can read the documents
3 that Mr. Nussbaum's looking at, are you?

4 And, you know, at that point I had, I
5 think, seen enough, and I told him that he was
6 getting a little carried away with the whole process,
7 and then at that point Mr. Nussbaum says yes, yes, of
8 course we're all on the same side here, we're just --
9 and that was about it.

10 Q And now when you told -- first of all, what
11 was Mr. Sloan's tone of voice when he spoke to you?
12 Was he joking or was he serious?

13 A No, he was serious.

14 Q I take it you were not standing to try and
15 see the documents?

16 A No.

17 Q And did you actually see the documents when
18 you were standing?

19 A Oh, no, I was standing, I guess, to give a
20 little bit of, if I -- let me just stand for a
21 second. If you were in his desk, I was probably this
22 distance away.

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1 Q And the record should indicate that
2 Mr. Salter is now standing up -- describe the
3 distance between you and me as you are indicating.

4 A It's probably 12 feet.

5 Q Okay.

6 A And I don't know if Mr. Sloan sensed that I
7 was annoyed, a little bit -- I don't want to say
8 annoyed; not happy with the way this search was
9 progressing, that was probably visible on my face
10 because I wasn't happy with it, and maybe that's why
11 he chose to speak up.

12 Q Mr. Salter, how tall are you?

13 A 6 foot, 3 inches.

14 Q You said -- well, let me just take you back
15 to the exchange with Mr. Sloan. You said that -- I
16 believe your exact words were that at this point you
17 "had seen enough." Is that correct?

18 MR. FISHMAN: I believe he testified that
19 it was visible on his face that he had seen enough,
20 not that he was stating his state of mind, but that
21 it was visible on his face.

22 MR. JOHNSON: I might have misheard him.

1 THE WITNESS: No, I'll make it clear.
2 After he had after -- Cliff Sloan had said that to
3 me, at that point I had -- I had testified that I had
4 seen and heard enough.

5 BY MR. JOHNSON:

6 Q You didn't say that?

7 A No, no, but that was just my -- I mean,
8 that's why I responded, you know, by telling him that
9 he was out of line, you know, that they're getting
10 carried away.

11 Q And what did you mean by that, that they
12 were "getting carried away"?

13 A That they were getting carried away with
14 the idea that this was an adversarial-type situation,
15 that we were on one side of the table and they're on
16 the other, and that they needed to protect what was
17 in the office from us.

18 And I guess I didn't expect that, and when
19 we walked into the office to begin the search, I
20 didn't expect that we would have that tone, but then
21 as we -- as this review of the documents progressed,
22 it was clear that that's what was going on, because

1 there would be -- he would review a document that had
2 writing on it and put it down on the desk and then I
3 think it was Sloan or one of the lawyers would kind
4 of scoot over and pick it up and turn it over like
5 that, which was, I thought, very inappropriate for
6 the circumstances. So that's what went into my
7 thinking for they were getting carried away.

8 Q Is your impression, based upon what you
9 observed in the search, that the representatives of
10 the White House counsel's office clearly did not want
11 anyone else to see the documents?

12 A Absolutely.

13 Q And when Mr. Margolis complained, as you
14 earlier testified, about the conditions of the
15 search, was it your understanding that that's what he
16 was complaining about?

17 A Yes. And it was -- well, go ahead. I'll
18 just answer the questions. I was just going to
19 add --

20 Q Go ahead if you --

21 MR. FISHMAN: To the extent that he thinks
22 the answer goes beyond the scope that we've been

1 discussing, perhaps --

2 THE WITNESS: No. I was just going to say
3 something else that Mr. Margolis said during the time
4 that made me think that was -- that he at some point,
5 and I don't know his exact words, but he told
6 Mr. Nussbaum that essentially that that's not what we
7 agreed on for the ground rules of the search. And
8 after hearing these things it was apparent to me that
9 the rules for the search were previously agreed on to
10 be one way and that when we walked into the office it
11 was Mr. Nussbaum that chose to change the rules.

12 BY MR. JOHNSON:

13 Q That was your impression based on the
14 exchange between Mr. Margolis and Mr. Nussbaum?

15 A That's right.

16 Q What do you recall, if anything, about
17 Mr. Nussbaum's response when Mr. Margolis said that's
18 not what we agreed on?

19 A I don't know what his response was. I
20 don't know exactly what he said, but it was just
21 clear that that's the way that he intended for this
22 review to be conducted, that he was going to look at

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1 all the documents himself.

2 Q I take it after Mr. Margolis's comment, the
3 conditions of the search did not change?

4 A They did not.

5 Q Okay. After Mr. Nussbaum went through the
6 documents on Mr. Foster's desk in the manner that
7 you've described, what did Mr. Nussbaum do next?

8 A I believe he did the documents on the top
9 of the desk. He then looked in the drawers of the
10 desk.

11 Q Was the manner of the review of the
12 contents of the drawers similar to the manner that
13 you've described the review of the documents on the
14 top of the desk?

15 A Yes.

16 Q That is to say Mr. Nussbaum would review
17 them and make a determination; is that right?

18 A Yes. And he had -- I think he had decided
19 he would review them and put them all into three
20 different piles on the front of the desk. One pile
21 would be documents that were pertinent only to
22 Mr. Foster's work for the President, and then another

1 pile that would be I think maybe personal papers, and
2 then a third pile that was documents that he couldn't
3 determine were pertinent or not and that we would go
4 back and visit later.

5 Q Did all documents that Mr. Nussbaum
6 reviewed during the course of the office search go
7 into one of those three piles or did some documents
8 go or remain someplace else?

9 A Many of the documents were put into a
10 pile. Others were reviewed, you know, maybe he
11 looked at and could quickly see that they were all
12 pertinent to one issue that was only work related,
13 and those may have stayed on a shelf for instance,
14 there were things that were shelved. So it wasn't as
15 if every piece of paper was pulled down and put in a
16 pile. Some things were looked at and put back in
17 place.

18 Q Some things remained in their original
19 location; is that fair?

20 A Right, that's fair.

21 Q So you were saying that Mr. Nussbaum went
22 through the contents of the desk. What's the next

1 thing that you recall that Mr. Nussbaum did?

2 A I think he did the items that were in the
3 drawers, any documents that were in the drawers.

4 Q And what do you recall after that?

5 A And then he looked at the contents of
6 Mr. Foster's briefcase.

7 Q It won't surprise you that I want to go a
8 little more slowly here. Where was Mr. Foster's
9 briefcase physically located before Mr. Nussbaum went
10 through the contents, if you know?

11 A It was on the floor, basically, just to --
12 if Mr. Nussbaum is sitting in the chair at the desk,
13 it was on the floor to his right next to the desk.

14 Q Could you see it from where you were
15 sitting?

16 A No.

17 Q And that would be because it was behind the
18 desk, the desk would obstruct your view of the
19 briefcase; is that correct?

20 A That's correct.

21 Q So am I correct that the first time you --
22 when was the first time you saw the briefcase?

1 A When Mr. Nussbaum reached down and picked
2 it up and told us that there's a briefcase here that
3 he would go through next.

4 Q Did he pick up the briefcase or just the
5 contents of the briefcase?

6 A I think he picked up the briefcase. I
7 think we saw it, you know, when it was full and he
8 may have picked it up and then decided it was easier
9 to put it back down and just pull the contents out.

10 Q Is that what you remember, that he picked
11 it up and then put it back down on the floor to pull
12 the contents out?

13 A I know that when he took the contents out,
14 it was on the floor.

15 Q So when Mr. Nussbaum removed the contents,
16 could you see the briefcase?

17 A No.

18 Q To the best of your knowledge, would it
19 have been possible from anywhere in the room on the
20 side of the desk opposite Mr. Nussbaum to see the
21 briefcase?

22 A I don't think so.

1 Q Tell me, as best you can, what Mr. Nussbaum
2 did with respect to the contents of the briefcase?

3 A He reached down and pulled out, you know, a
4 small stack of papers and went through, you know,
5 those items and placed them in the appropriate pile.

6 And then I think he probably reached down
7 again and pulled out more papers and went through
8 those. Then he picked up the briefcase to show to us
9 that it was empty, that everything had been taken out
10 of it.

11 Q How did he indicate to you that the
12 briefcase was empty?

13 A I believe he -- from what I recall, he
14 picked it up and had two handles on it and simply
15 said that's all there is in the briefcase and then
16 turned and placed it behind him against the wall.

17 Q Now, as you've been speaking you've also
18 been indicating, so let me just try to capture some
19 of that on the record. When you say he picked it up,
20 you indicated that he reached down on the floor
21 behind Mr. Foster's desk to pick up the briefcase; is
22 that correct?

1 A Yes, he picked -- it was behind the desk
2 right next to him. I believe he picked it up with
3 his right hand and put his left hand on the other
4 handle and maybe opened it slightly to indicate, to
5 show us that there was nothing in it. And the way he
6 held it up in the air I could see that it was empty
7 because it was light.

8 Q Could you see inside the briefcase?

9 A No, I could not.

10 Q Again, just based upon your observation at
11 the time, would it have been possible to see inside
12 the briefcase from anywhere in the room opposite
13 Mr. Nussbaum? And what I'm really asking is did he
14 open it in a way that people could see the contents
15 or did he just indicate in some other way that it was
16 empty?

17 A When he picked it up by the handles he was
18 not -- I don't recall that he was opening it so that
19 people could see all the way to the bottom and
20 showing it to everybody in the room. He picked it up
21 and it was still level and simply opened it a little
22 bit, and whether or not people could see inside of it

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1 that were on the opposite side of the desk, I don't
2 think so.

3 Q I take it you did not see inside the
4 briefcase?

5 A I did not.

6 Q Okay. Did Mr. Nussbaum, for example, hold
7 the briefcase upside down and shake it or anything
8 like that?

9 A No, no, he did not.

10 Q What do you remember, if anything, that
11 Mr. Nussbaum did with the briefcase after raising it
12 in the way you've indicated?

13 A He turned to his right and placed it
14 against the wall behind him.

15 Q What's the next thing you recall about the
16 review of the contents of Mr. Foster's office?

17 A He continued to -- continued the review by
18 going to -- I guess if he's seated at the desk it
19 would be kind of behind him to the left where I think
20 there were bookshelves or maybe a couple small
21 cabinets. He opened the cabinets and looked at the
22 items that were in there.

1 Q And conducted the review in the same manner
2 that we've been discussing prior to now?

3 A Yes, but those items, I believe, were left
4 in place. He looked at them and put them back in
5 where he found them.

6 Q Throughout the course of Mr. Nussbaum's
7 review of the contents of the office, to the best of
8 your knowledge, did he look everywhere in the office?

9 A Yes.

10 Q You don't recall there being a filing
11 cabinet or a drawer which was not opened?

12 A I recall that there may have been -- I
13 think he went through everything that was open.
14 There may have been a small safe in the office. And
15 this was -- this has been brought out, I guess, after
16 we left there. I can't recall if there was a safe in
17 the office or not.

18 Q Okay. Just focusing on your memory of what
19 you saw there at the time. Do you know whether or
20 not Mr. Nussbaum unlocked any file drawers during the
21 course of this review?

22 A I don't recall him unlocking everything. I

1 think all the drawers were already unlocked.

2 Q Putting aside some question in your mind
3 about whether or not there was a safe in Mr. Foster's
4 office. Other than that, do you think Mr. Nussbaum
5 searched everywhere that you could see?

6 A Yes.

7 Q How long did this review of the contents of
8 the office take?

9 A I think 40 minutes to maybe an hour. 40
10 minutes is probably close.

11 Q How did it -- have we missed anything about
12 any other dialogue or discussion that may have taken
13 place during the course of Mr. Nussbaum's review that
14 you today recall that we haven't talked about?

15 A No. I think that was about it.

16 Q Okay. Who was sitting next to you?

17 A I think Pete Markland was to my left, and I
18 can't recall who was to my right or forward of me.

19 Q Did you have any conversations with
20 Mr. Markland during the course of Mr. Nussbaum's
21 review of the contents of the office?

22 A No.

1 Q He didn't lean over to you and say or
2 suggest "this is a joke" or any words to that effect?

3 A I don't recall. He may have, but I don't
4 recall that.

5 Q And you didn't say that to him?

6 A No, I don't -- no, I didn't say anything
7 like that.

8 Q What's the next thing you do recall about
9 the review of the contents in Mr. Foster's office on
10 the afternoon of the 22nd?

11 A There were some things that were identified
12 as being Mr. Foster's personal papers that pertained
13 to his car insurance and the car insurance is the
14 only one that really stands out in my mind. Things
15 that, as they were described to us, I didn't think
16 would be pertinent to anything.

17 And it was -- since none of the
18 investigators had actually seen these things, we were
19 kind of finishing for the day, I suggested that they
20 be sent with the family's attorney and kept at the
21 attorney's office. And if the Park Police needed to
22 go look at those, they could go to the attorney's

1 offices as opposed to getting back into the west wing
2 in the White House.

3 Q When you say those things, do you mean
4 Mr. Foster's personal papers, an example of which
5 would be his car insurance, things of that kind?

6 A Right.

7 Q And do you know whether or not that's what
8 happened?

9 A Yes. The family attorney did take those.

10 Q You physically saw him pick them up and
11 remove them?

12 A Yes.

13 Q I should have asked you whether or not
14 during the course of the review of the contents of
15 the office Mr. Nussbaum went through any trash or
16 trash containers?

17 A Yes, he did.

18 Q What do you recall about that?

19 A He went through the small plastic bag of
20 trash that had been taken out inadvertently, and then
21 there was another -- there was another trash
22 container that was for confidential trash, like a

1 burn bag, and he went through that also.

2 Q All right. On the burn bag, do you
3 remember whether or not there was anything in there?

4 A I think there were items in there.

5 Q Where was the -- putting aside now the burn
6 bag, the other trash container that you described as
7 having been taken out inadvertently, do you know
8 where that was physically located in the office when
9 Mr. Nussbaum went through it?

10 A I recall that it was -- I really don't
11 recall specifically. I think it was in there maybe
12 on the floor in the corner. When it had been brought
13 back up, it just got sat in the corner.

14 Q It sounds like your memory on that is
15 pretty fuzzy, though.

16 A Right.

17 Q How full was the plastic container, the
18 plastic bag?

19 A Just partially full.

20 Q You were saying that you may have suggested
21 that the personal papers of Mr. Foster's should be
22 removed by Mr. Foster's attorneys; is that correct?

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1 A Yes.

2 Q What else do you recall happening at the
3 conclusion of the review of documents?

4 A There was a computer that was in the
5 office, and there was some discussion about how to go
6 about reviewing what was on the hard disk or the
7 floppy disk there for the computer.

8 Q What do you recall about that discussion?

9 A Well, not very much because the review of
10 the computer was never done. I think there was some
11 discussion about whether everything that was on the
12 computer should be printed out and then it could be
13 reviewed, but I don't know how it was ever resolved,
14 how those things were to be reviewed.

15 Q Now, when you say it was never done, do you
16 mean it was not done on the 22nd during the review of
17 the contents of the office, or that it was never done
18 at all?

19 A It was never done when we were there on the
20 22nd.

21 Q And you don't know today whether or not it
22 was ever done?

1 A No, I don't.

2 Q Why was it, was there any explanation
3 offered by why it was not done on the 22nd?

4 MR. FISHMAN: Can you focus that a little
5 more particularly.

6 BY MR. JOHNSON:

7 Q Yeah, I'll try. I think you testified that
8 there was discussion about Mr. Foster's computer and
9 reviewing what may be on the computer; right?

10 A Right.

11 Q Who was involved in that discussion?

12 A I believe it was Captain Hume and David
13 Margolis.

14 Q Did they ask a question to Mr. Nussbaum or
15 someone else, is that what happened?

16 A It was just brought up that there may be
17 something pertinent, you know, in the computer
18 drives.

19 Q And what do you recall, did anyone respond
20 to that suggestion that there may be something
21 pertinent in the computer drives?

22 A I didn't take part in the conversation. I

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1 think maybe Mark -- David Margolis did, but I really
2 don't recall, and I don't -- again, it wasn't done
3 that day, so I think it was, I think it was pretty
4 much left that the computer would just sit there
5 until a better time or could be arranged to go
6 through those.

7 Q What else do you recall at the conclusion
8 of the review of Mr. Foster's office on the 22nd?

9 A I think that's about it.

10 Q Was there any discussion, to the best of
11 your recollection, about whether or not the office
12 would remained locked after that review?

13 A My impression was that it would not
14 remained locked any longer.

15 Q And what do you base that impression on?

16 A I don't know who was speaking. I just know
17 that at the conclusion there -- because I think -- I
18 think part of the problem was it was somewhat of an
19 inconvenience to have that office secured, and it
20 was -- it would interrupt the work that they did up
21 there. And so when it was completed, I believe that
22 the thinking was on the part of -- well --

1 MR. FISHMAN: Before we get into thinking,
2 I'm --

3 MR. JOHNSON: I'll ask him -- I'll be more
4 specific. He can say generally what he thinks and
5 I'll ask him why he thinks that.

6 MR. FISHMAN: Well, I don't know what he's
7 going to say about what he thinks on a particular
8 topic here, so I'd prefer if we could -- if we could
9 focus the inquiry so we could --

10 MR. JOHNSON: Well, I think the question
11 was whether or not there was any discussion, to the
12 best of your recollection, about whether or not the
13 office would continue to be locked after the search.

14 MR. FISHMAN: Right, right.

15 MR. KRAVITZ: I think he started answering
16 by saying what his impression was.

17 MR. FISHMAN: I think the question was what
18 the discussion was.

19 THE WITNESS: Well, I believe that the
20 office was not to be locked, not to be secured
21 anymore after that, simply because the search was
22 complete.

1 BY MR. JOHNSON:

2 Q And do you believe that was discussed or
3 was that just an assumption that you had?

4 A I recall that as being discussed, and I
5 guess I recall that it was Mr. Nussbaum that --
6 because it would have been, I think, at that point
7 his decision on whether or not the office remained
8 locked. I think it was Mr. Nussbaum that pretty much
9 said that the office would no longer be locked.

10 Q You don't recall anything more about it
11 than that, I take it?

12 A No, I don't.

13 Q Did anyone from the Park Police or the FBI
14 or anyone else in your presence suggest to
15 Mr. Nussbaum that it would be a good thing if the
16 office did remain locked?

17 A I don't recall that.

18 Q Okay. Now, at this point in time -- "this
19 point in time," for purposes of my question, being
20 the conclusion of the review of the contents of
21 Mr. Foster's office on the afternoon of the 22nd --
22 had you reviewed any of the documents in Mr. Foster's

1 office?

2 A No.

3 Q To the best of your knowledge based on
4 everything you did, had observed and heard, had
5 anyone other than Mr. Nussbaum and other members of
6 his staff reviewed any of the documents in
7 Mr. Foster's office?

8 A No, no one had.

9 Q So am I correct in concluding that in this
10 search of Mr. Foster's office, neither the Park
11 Police nor the FBI nor the Department of Justice
12 representatives, based on everything you saw,
13 participated in that search?

14 A That's right.

15 Q You were all, of course, physically
16 present; is that correct?

17 A We were present, and we basically watched
18 Mr. Nussbaum review the documents.

19 Q But you personally had no idea what was in
20 any of the documents, I take it?

21 A That's correct.

22 Q Did you ever say to anyone why are we here?

1 MR. FISHMAN: I'm sorry. Could you read
2 that back.

3 (The reporter read the record as requested.)

4 MR. FISHMAN: Do we have a time frame for
5 that or a focus to whom?

6 MR. JOHNSON: I don't want to focus to whom
7 because the question is to any anyone. Why don't we
8 limit it, first, to on that day.

9 MR. FISHMAN: It's a yes or no.

10 THE WITNESS: Yes.

11 BY MR. JOHNSON:

12 Q To whom do you recall saying that?

13 MR. FISHMAN: Well, before he answers the
14 question, again, we seem to be getting into an area
15 that has to do with not what he saw or observed at
16 the White House and what action people at the White
17 House may have taken, but internal discussions
18 possibly between him and other law enforcement
19 personnel, and it's unclear to me either what the
20 focus of the inquiry was supposed to be or that it's
21 appropriate, again, to go into internal
22 communications. It may have taken place between him

1 and his supervisor, for example.

2 MR. JOHNSON: Why don't we see whether it
3 did before we struggle over that again.

4 BY MR. JOHNSON:

5 Q You've answered yes, that you did express
6 that to someone. Did you ever express that to anyone
7 other than your supervisors or colleagues?

8 MR. KRAVITZ: What are we asking about what
9 he expressed?

10 MR. JOHNSON: Why are we here is the
11 question.

12 MR. FISHMAN: I guess the question -- I'm
13 still unclear as to what the appropriate, why that
14 question is relevant for an FBI agent in this
15 inquiry.

16 MR. JOHNSON: Well, because he was there
17 and he was a participant, and part of this inquiry is
18 whether or not there was cooperation with the FBI and
19 Park Police investigation --

20 MR. FISHMAN: And I understand that because
21 I'm not sure --

22 MR. JOHNSON: -- and his opinion about

1 whether or not there was cooperation is relevant, but
2 you won't let him talk about his opinion. But beyond
3 that, what he may have said to people about whether
4 or not there was cooperation I think is just a fact,
5 it's not his opinion. I'm not asking whether he
6 spoke truthfully when he said why are we here, I'm
7 just asking did he say it to anyone.

8 MR. FISHMAN: Except the question is
9 designed to elicit opinion. It is not designed to
10 elicit what happened at the White House.

11 MR. JOHNSON: I think it specifically asks
12 him at the White House on that day did you ever say
13 to anyone why are we here.

14 MR. FISHMAN: But no --

15 MR. JOHNSON: I don't know how you'd ask a
16 more fact-oriented question.

17 MR. FISHMAN: It's not a fact-oriented
18 question. I'm saying it's trying to elicit state of
19 the mind of line agents of the FBI about how they
20 perceived particular events and not how other people
21 were behaving, but simply what they -- how those
22 events shaped their own opinions about what had

1 occurred, and it's unclear to me what the relevance
2 or appropriateness is of inquiring of FBI agents
3 about what they thought about things that were going
4 on.

5 MR. JOHNSON: I guess, Paul, just to be
6 blunt about it, if the FBI agents who were present
7 and participated thought that the entire search was a
8 sham, a show, that's at the center of what we want to
9 know. Was there ever really a search, what happened
10 on that day other than Mr. Nussbaum declared victory
11 and said everything's fine.

12 MR. FISHMAN: Once again, you are asking
13 the agents to draw the inference; that is the
14 Committee's inference to draw. The agent has told
15 you what he observed from his perspective. He's told
16 you that he played no role in reviewing the documents
17 and so forth. Whether he thought it was a show or a
18 sham or not is not what the appropriate -- is not
19 what a line agent should be asked. The line agent
20 should be asked what he saw, what happened and then
21 the inference is to be drawn by others.

22 MR. JOHNSON: I guess I just disagree, but

1 why don't we just move on.

2 You want to say something?

3 MR. KRAVITZ: I think -- well, I guess I
4 basically agree with Paul's position on the question
5 of relevance. On the other hand, I think if at any
6 point Mr. Salter said anything to Mr. Nussbaum or to
7 someone else in the White House about why they were
8 there, that certainly would be -- I mean the reaction
9 and the conversation that followed certainly would be
10 relevant to the question of whether the White House
11 was cooperating.

12 MR. FISHMAN: I agree with that. If those
13 conversations took place in the presence of
14 personnel, or not law enforcement, then I would have
15 no objection.

16 MR. JOHNSON: Okay. Why don't we ask him
17 that. Thanks. That's a good idea.

18 BY MR. JOHNSON:

19 Q The conversations that I've been asking you
20 about, which are generally on the topic of why the
21 FBI were there, were they in the presence -- were
22 they directed to or in the presence of White House

1 personnel?

2 A No.

3 MR. KRAVITZ: Actually, in the event I
4 didn't make it clear before on the record, to the
5 extent that I agreed with what Mr. Fishman said, I
6 really meant only on the basis of relevance. I'm not
7 necessarily agreeing with what he says about law
8 enforcement privileges or something similar to that.

9 MR. FISHMAN: I understand.

10 BY MR. JOHNSON:

11 Q To the best of your knowledge, Mr. Salter,
12 did anyone ask representatives of the White House or
13 White House personnel why the search had been
14 conducted in the way that it was conducted?

15 A The only person that I'm aware of that
16 discussed this with White House personnel was David
17 Margolis, and he did discuss the parameters of the
18 search with, I guess, Mr. Nussbaum and the others
19 there.

20 Q Okay. And are you referring to the
21 comments that Mr. Margolis made that we've already
22 discussed, or did he say something else?

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1 A No, I'm referring -- yes, I'm referring to
2 the comments that he made during the search.

3 Q Did Mr. Margolis ever say to Mr. Nussbaum
4 or other White House personnel if this is all you're
5 going to do, what do you need us here for? Words to
6 that effect?

7 A Yes, that sounds like a statement that he
8 made in everyone's presence during the search.
9 That's what -- I testified earlier that he made
10 several comments or statements to Mr. Nussbaum during
11 the search, those are the type of statements that he
12 made.

13 Q When you say "those are the type of
14 statements," why don't you tell -- rather than having
15 my words be the only comment of that on the record,
16 why don't you tell me what type of statement he made?

17 A Well, as I've already said, statements like
18 how do we know if what's on the document is relevant
19 unless we see it. And the statement that you had
20 brought up about why do you need us here. I mean,
21 although I can't recall any other specific things
22 that he said -- and those may not have been his exact

1 words -- that was the tone of his -- of the things
2 that he was saying to Mr. Nussbaum.

3 Q And with respect to the second statement,
4 the why-do-you-need-us-here statement, do you
5 remember what, if any, response Mr. Nussbaum made to
6 that?

7 A Not specifically, but I believe that
8 Mr. Nussbaum indicated that if there was something
9 there that was pertinent, then we would, we would be
10 able to see it. And that -- I think he was
11 indicating that's why we need to be there.

12 Q And coming back to something you said
13 earlier, who was deciding under the circumstances of
14 that search what was pertinent?

15 A It was Mr. Nussbaum.

16 Q Do you recall anything else, Mr. Salter,
17 about the search of the contents of Mr. Foster's
18 office on the afternoon of the 22nd?

19 A I think that's about it.

20 Q Okay. Let me, by the way, at this point in
21 time -- "this point in time," for purposes of this
22 question, being at the conclusion of the search that

1 we've just been describing -- was it still your
2 impression that no documents had been removed from
3 Mr. Foster's office since the time of his death?

4 A Yes.

5 Q Do you remember whether or not at the
6 beginning of the search on the 22nd Mr. Nussbaum
7 spoke again on the topic of who may or may not have
8 entered the office and whether or not any documents
9 had been removed? And the reason I say "again" is
10 you've already testified that he mentioned that in
11 the meeting on the 21st. I'm wondering if it came up
12 again on the 22nd.

13 A I don't specifically recall it coming up
14 again on the 22nd.

15 Q Let me show you a document that shows FBI
16 production numbers 00000072 through 75, which appears
17 to be another telex, and ask you whether or not
18 you've ever seen that document before.

19 (Witness reviewed the document.)

20 A Okay.

21 Q Can you tell us, first of all, whether or
22 not you've ever seen that document before?

1 A Yes, I've seen it before.

2 Q What is it?

3 A This is a teletype that was sent from our
4 field office to FBI headquarters and it looks like it
5 went out on July 28th.

6 Q Did you play any role, Mr. Salter, in the
7 preparation of that teletype?

8 A Yes, I believe that this looks like a
9 teletype that John Danna wrote as opposed to one that
10 I wrote, but I either -- if I didn't write this
11 myself and John Danna wrote it, then I provided a lot
12 of the information to him in writing of it.

13 Q Let me just take a quick look at it, if I
14 could, please. I might be able to -- why don't you
15 look at the bottom of the second page of this
16 exhibit, which bears document production number 73,
17 where it says -- and I'll just read it for the
18 record, "on 7/22/93 Mr." -- strike "Mr." -- "Nussbaum
19 conducted a review of all documents in Foster's
20 office while in the present of WMFO SAs and
21 representatives of the other interested agencies" --
22 let me just stop you right there. What is WMFO SAs?

1 A Washington Metropolitan Field Office,
2 that's my field office. SAs means special agents.

3 Q Special agents?

4 A Yes.

5 Q Continuing from the exhibit, "no suicide
6 note was found, all documents related to Foster's
7 work at White House were reserved and only those
8 documents which Nussbaum characterized as 'personal'
9 and 'not work related' were removed to be made
10 available for the investigators' review." Do you see
11 that?

12 A Yes.

13 Q Do you have any recollection about whether
14 or not you wrote that part of this telex?

15 A Reading that makes me think that I did not
16 write this. I could tell if I saw a draft copy of it
17 if my initials were on it, but probably I did not
18 write this.

19 Q You say that because it's not your style?

20 A Right. I think had I wrote this I would
21 have -- well, I'll just leave it at that, that
22 probably this is sent out by John Danna.

1 MR. FISHMAN: If we could suggest that the
2 agent's attention be directed to documents 116 and
3 the ones that follow, that appears to be the draft
4 previously provided to the Committee.

5 MR. JOHNSON: Do you mind showing it to
6 him?

7 MR. FISHMAN: He's got it.

8 THE WITNESS: This is 116. This is
9 something that I did write.

10 BY MR. JOHNSON:

11 Q Okay. When you say "this" you are
12 referring to the exhibit we've just been referring
13 to?

14 A Yes.

15 Q Document number bunches -- six zeros 72
16 through 75?

17 A Yes.

18 Q You wrote this?

19 A I did.

20 Q Now, the paragraph that I just read into
21 the record implies to me that only the documents
22 which were the personal documents removed by

1 Mr. Foster's attorney were to be made available to
2 the investigators for review. Have I misread that?

3 A Well, I believe these would be the
4 documents that were removed by the attorney.

5 Q Okay.

6 A Because there was no documents that were
7 removed by the FBI or the Park Police.

8 Q And my question is other than the documents
9 that were removed by Mr. Foster's attorney, what was
10 your understanding, if any, about whether or not the
11 FBI could review the other documents that remained in
12 Mr. Foster's office?

13 A My understanding was that we would not be
14 able to review those documents.

15 Q And as you sit here today, have you ever
16 reviewed those documents?

17 A No.

18 Q To the best of your knowledge, has anyone
19 in the FBI reviewed those documents, based on
20 personal knowledge?

21 MR. FISHMAN: Well, even -- well, even
22 based on personal knowledge, his personal knowledge

1 could be informed by having read FBI documents.

2 There is an ongoing investigation in which those
3 documents may have been reviewed. He may know it
4 from another source, so --

5 MR. JOHNSON: Why don't we see if he has
6 knowledge and then we'll --

7 MR. FISHMAN: Does he know whether those
8 documents have been reviewed or not.

9 MR. JOHNSON: That's fine. Answer
10 Mr. Fishman's question, that's fine.

11 THE WITNESS: No, I don't know.

12 BY MR. JOHNSON:

13 Q Let me show you another document, which
14 bears FBI production numbers 34 and 35. It says at
15 the top "Federal Bureau of Investigation" and it's --
16 the date of transcription appears to be August 6,
17 1993.

18 A Yes.

19 Q Have you seen this document before?

20 A Yes, I have.

21 Q Can you tell us what this is?

22 A This is what we call an FD 302, this is a

1 report that I prepared regarding the review of the
2 documents in Mr. Foster's office.

3 Q This is intended to be a description of the
4 review that you and I have just been discussing now
5 for some period of time; is that a fair statement?

6 A That's correct.

7 Q The first sentence -- let me read the first
8 two sentences. "The inventory was conducted by
9 Bernard Nussbaum. Only individuals employed by the
10 White House were permitted to look at the items and
11 documents within the office." Do you see that?

12 A Yes.

13 Q Did you write that?

14 A I did.

15 Q What was your purpose in writing that?

16 MR. FISHMAN: I'm going to -- again, I'm
17 going to object to the -- what do you mean by his
18 purpose in writing that?

19 MR. JOHNSON: What did it mean? What was
20 he intending to convey by that? I'm not asking
21 secret motivations.

22 THE WITNESS: As with any 302 that we

1 write, it's to accurately document the investigation
2 that took place, the events that took place.

3 BY MR. JOHNSON:

4 Q Would it be consistent with your customary
5 practice to do an FBI 302 about a search of this
6 kind? Is there anything at all unusual about your
7 preparation of this document?

8 A It's not unusual that -- no, it's not at
9 all unusual that we would document an investigation
10 that we conduct. The only thing that's unusual about
11 this is that this has -- I'll be brief to go right
12 back to the beginning of when we got involved in
13 this. When we started this it was to assist the Park
14 Police in their investigation, they're the lead
15 agency. And kind of the protocol that we abide by is
16 that the lead agency, that it's going to prepare the
17 report, will document the events that took place.
18 That's why we pair up the Park Police and the FBI and
19 it's their responsibility to prepare the report. We
20 are there to help them.

21 It was not our objective to prepare a
22 competing report and that's why there is not 302s

1 written on the interviews of Pond and Gorham and
2 Castleton, because that's in the Park Police report.

3 This was written, you can see this
4 investigation was on 7/22/93 and the date dictated is
5 8/5/93, which is much later than I would normally do
6 for a 302. After we, I guess, re-entered this matter
7 on the 29th of July, I went back and took my notes --
8 or I don't think I really had notes, I just went back
9 and prepared a 302 regarding the search.

10 So the only thing that's unusual about
11 this, it was pertinent to the investigation that we
12 restarted on the 29th, and so I went back and
13 prepared a 302 and it was done a little bit later
14 than it normally would be done.

15 Q Thank you. Mr. Salter, have we covered --
16 this is not a memory test, but I just want to know
17 whether or not as you sit here today you believe
18 we've covered everything that happened on the 22nd of
19 July, 1993 involving the investigation into
20 Mr. Foster's death and the documents in his office
21 about which you have personal knowledge?

22 A Yes, I think we've covered it.

1 Q So the conclusion of the search on that
2 day, I take it nothing further happened, to the best
3 of your recollection, about that investigation?

4 A That's right.

5 MR. JOHNSON: Can we take a five-minute
6 break now and then we'll move back.

7 (Recess.)

8 BY MR. JOHNSON:

9 Q When we broke, Mr. Salter, we were
10 concluding together that we had covered, at least to
11 the best of your recollection, all of the events of
12 the 22nd of July, 1993. Let me focus on about a
13 one-week period of time between the 27th and, say,
14 the 28th -- I'm sorry.

15 Between the 22nd of July and the 28th of
16 July of 1993, what involvement, if any, did you have
17 in the investigation into Mr. Foster's death or any
18 other matter relating to Mr. Foster's death?

19 A I wasn't involved in that investigation at
20 all during that time.

21 Q There were no events in which you
22 participated in that intervening week or so in which

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1 you -- which relate in any way to Mr. Foster's death;
2 is that correct?

3 A That's correct.

4 Q But there did come a time when you became
5 reinvolved, at least to a limited extent in the
6 investigation surrounding Mr. Foster's death; is that
7 right?

8 A That's right.

9 Q Can you tell us how that happened?

10 A About a week later, I think it was, on
11 the -- I think it was on the 29th of July, maybe the
12 28th. 28th or 29th, I was called by the assistant
13 special agent in charge of our field office, James
14 Desarno, and told that we were going to again become
15 involved in the Foster investigation. On that day, I
16 went over to our headquarters and picked up an agent,
17 an inspector over there, Pat Foran, and brought him
18 over to our field office and it was on that day that
19 we started -- we again got reinvolved involved in
20 this case.

21 Q What were you investigating at that time
22 when you got revolved in the case?

1 A We were to look into any obstruction of
2 justice, any obstruction of justice as related to the
3 Park Police investigation of Vincent Foster's death.

4 Q Now, as you understood your investigation
5 at that time, was it broader than the delay in
6 turning over the note that was subsequently found --
7 when I say "subsequently," subsequent to July 22nd --
8 in Mr. Foster's briefcase, or what did -- Patricia,
9 just strike the whole thing.

10 Were you investigating simply the delay in
11 turning over the note or were you investigating the
12 potential obstruction with respect to the entire
13 investigation into Mr. Foster's death?

14 A It was specifically -- we started
15 specifically because of the delay in turning over the
16 note.

17 Q Okay. And did you mean to suggest in your
18 answer at some point in time your investigation
19 broadened?

20 A It broadened only to the point where we
21 also investigated the -- I'll say the whole matter of
22 the note being torn and in the briefcase at the time

1 of the search on the 22nd. That was also a part of
2 it.

3 Q I don't mean to misstate this at all. I
4 just need to understand it. If I get it wrong, I'll
5 trust to you correct me. One thing you were
6 investigating is why it took 30 hours to turn over
7 the note, I take it?

8 A Right.

9 Q And another thing you were investigating is
10 why the note was not discovered during the initial
11 review?

12 A Right.

13 Q Anything else that you were investigating?

14 A That was it, that's it.

15 Q At the beginning of the investigation -- I
16 think you testified it was on the 29th of July; is
17 that correct?

18 A Yes, that's correct.

19 Q Where physically was the note at that time?

20 A It was in the custody of the Park Police.

21 Q Did any part of your investigation review
22 examining the note itself?

1 A Yes.

2 Q Can you tell me what you recall was done
3 with respect to the examination of the note?

4 A The note was -- the pieces of paper that
5 make up the note were sent over to our lab where they
6 put it back together and determined that there was
7 one piece missing out of the note and they conducted
8 latent fingerprint examination of it.

9 Q What did the latent fingerprint examination
10 reveal, if anything?

11 A There was a partial palm print on the note
12 that was or on the piece of paper that was not
13 suitable for identification.

14 Q And as you sit here today I take it you
15 don't know whose palm print that was on that note?

16 A No, it can't be identified.

17 Q Did any part of your investigation
18 beginning on about the 29th of July, 1993 investigate
19 the possibility that the note was not in Mr. Foster's
20 briefcase at the time of the search of Mr. Foster's
21 office on July 22nd, 1993?

22 A That was, I think, part of what we were

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1 trying to determine.

2 Q Okay. And what, if anything, did you
3 determine with respect to that?

4 A I guess you are asking for the conclusion
5 of the whole thing.

6 Q I'm just trying to be fast.

7 A I guess we concluded that the events as
8 related by Mr. Nussbaum -- I'm trying to figure out
9 the best way to say this. There were no facts that
10 came out that were directly disputed or that even,
11 you know, strongly indirectly disputed it. There was
12 essentially nothing that came out to say that that's
13 not what really happened.

14 Q You didn't uncover any evidence to suggest
15 that Mr. Neuwirth's explanation that he found the
16 note in the briefcase on the 26th was not true?

17 A That's right.

18 Q And you didn't uncover any evidence to
19 suggest that the note was not in the briefcase on the
20 22nd of July during the review of Mr. Foster's
21 office?

22 A That's correct.

1 Q Did you investigate at all where the note
2 was originally written? And I'm not the expert you
3 are, but let me give you an example, did you look at
4 the note pads in Mr. Foster's office to see whether
5 you could see any indentations that may have been
6 made from the writing of the note?

7 A We took some note pads out of the office --
8 I can't recall how many there were -- and sent them
9 to be examined for indented writing.

10 Q And what did you learn?

11 A There was no indented writing that was
12 consistent with the note on any of the pads.

13 Q Did you take any note pads from
14 Mr. Foster's home to make the same kind of inquiry?

15 A No.

16 Q Did you take any note pads from anywhere
17 else in the White House to make the same kind of
18 inquiry?

19 A No.

20 Q Did you inquire, through whatever
21 investigative techniques you would ordinarily use,
22 whether or not it's possible that there was more than

1 one page to the handwritten note?

2 A I think the note itself was examined for
3 indented writing for, say, a first page, which was
4 negative.

5 Q Did you physically go and examine
6 Mr. Foster's briefcase?

7 A Yes.

8 Q Where was it located when you went to
9 examine it?

10 A It was in Mr. Foster's office.

11 Q Okay. Was there anything in it?

12 A No.

13 Q Nothing at all?

14 A No.

15 Q And by that I mean not just the 28th piece,
16 but any other contents at all in the briefcase.

17 A I believe it was empty.

18 Q Now, in the course of your investigation
19 which you recommenced on the 29th, did you talk to
20 any and all individuals who, to your knowledge, had
21 been in Mr. Foster's office since -- after the time
22 of his death but before that office was sealed by the

1 Secret Service?

2 A Yes.

3 Q Where did you get your information about
4 who was in that office?

5 A Let me just add, I talked to everybody
6 except for the cleaning staff that took the trash
7 out. I never talked to them. And I got the names of
8 the people that had been in there from Mr. Nussbaum.

9 Q Did you go and interview Mr. Nussbaum?

10 A Yes.

11 Q And did you ask him who was in Mr. Foster's
12 office after he died but before it was sealed?

13 A Yes.

14 Q And to the best of your recollection, what
15 did Mr. Nussbaum tell you?

16 A I think he said that -- I have to make sure
17 I look at my 302 to be complete, but he said that he
18 had been in the office, and I'm having a hard time
19 now distinguishing whether -- who it was that the
20 individuals that Mr. Nussbaum told me were in the
21 office, and separating that between the information I
22 got later when I interviewed all those people because

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1 there were other names that came up and I can't
2 recall.

3 Q Fair enough. Would it be useful to you to
4 see your 302 of that interview with Mr. Nussbaum?

5 A Yes.

6 Q Let me show you a document which I believe
7 is that. The date of transcription is August 3rd,
8 1993, the date dictated is August 2nd, 1993, and it
9 bears FBI production numbers 21, 22 and 23. First
10 question is, is that your 302 record of your
11 interview with Mr. Nussbaum?

12 A Yes, it is.

13 Q Okay. Take as much time as you'd like to
14 refresh your recollection about what Mr. Nussbaum may
15 have told you.

16 (Witness reviewed the document.)

17 A Okay.

18 Q Does that assist you in recalling what
19 Mr. Nussbaum may have said to you about who, if
20 anyone, had been in Mr. Foster's office?

21 A Yes.

22 Q Why don't you tell me what Mr. Nussbaum

1 told you?

2 A Well, I think from this report, from that
3 interview, I think the interview concentrated mostly
4 on the events that occurred after the search of the
5 office on the 22nd where he simply talked about the
6 events that took place there up until the 26th when
7 the note was found.

8 Q Is there -- was there another interview
9 with Mr. Nussbaum which focused on who may have been
10 in Mr. Foster's office on the 20th or early morning
11 hours of the 21st?

12 A I think that mostly came from the first
13 interview, the meeting we had with Mr. Nussbaum on
14 the 21st.

15 Q Okay. And you and I have referred already
16 to your notes of that meeting; is that correct?

17 A That's correct.

18 Q Now, you may recall from your notes in that
19 meeting that we pointed out that it only referred to
20 Mr. Nussbaum and Ms. Pond as having been in that
21 office?

22 A Yes.

1 Q So did you ever reach any different, have
2 any different information about who may have been in
3 that office on the evening of the 20th and early
4 morning hours of the 21st?

5 A Yes. I got other information based on
6 other interviews I did of people that work in the
7 west wing.

8 Q Now, I realize it's going to be very
9 difficult for you to sort out which information came
10 from which interview, and for purposes of this
11 question it's not necessary. But based upon your
12 total knowledge, who is it that you understand, based
13 on the interviews that you conducted, was in the
14 office of Mr. Foster after he died on the 20th but
15 before it was sealed on the 21st?

16 A Bernard Nussbaum, Patsy Thomasson, Margaret
17 Williams and Pond.

18 Q Betsy Pond?

19 A Betsy Pond.

20 Q In the course of conducting all of your
21 interviews, did the name Evelyn Lieberman ever come
22 up, to the best of your recollection?

- 1 A I'm not familiar with that name.
2 Q Let me show you another document,
3 Mr. Salter, that bears FBI production numbers 4
4 through 12. Which appears -- which is a memorandum
5 dated August 9th, 1993, apparently from J.C. Frier to
6 a Mr. Potts. Do you see that document?
7 A Yes.
8 Q Have you seen it before?
9 A Yes.
10 Q Did you play any role in its preparation?
11 A No.
12 Q What is it?
13 A This is a memo from J.C. Frier, who I do
14 not know, to Mr. Potts, who is the -- he's an
15 assistant director of the FBI. And it's basically a
16 summary of the events from the July 21st through the
17 conclusion of, through August 4th or 6th or whatever
18 it was, through the conclusion of the investigation
19 that we did. And I recognize a lot of it because I
20 think a lot of it is the same as the summary of the
21 report that I wrote and sent over to headquarters.
22 Q Your assumption is that Mr. Frier may have

- 1 used the summary of the report that you wrote in the
2 preparation of this memorandum?
3 A He did.
4 Q How do you know that?
5 A Because I compared the two and they're the
6 same.
7 Q When you say they're the same, you mean
8 verbatim?
9 A Essentially, yes, for most of it.
10 Q So when I asked you earlier if you played
11 any role in its preparation and you said yes, that's
12 how you meant you played a role in it, that your
13 report --
14 MR. FISHMAN: I think he said no.
15 THE WITNESS: I said no.
16 MR. JOHNSON: Same question.
17 BY MR. JOHNSON:
18 Q This comes from your report, to the best of
19 your knowledge?
20 A Yes.
21 Q In fact, why don't we make this a little
22 easier. Why don't you refer me to the document

1 numbers of your report and I'll pull up that one.

2 A 13, I think 13 starts the report that I
3 did.

4 Q 13 through?

5 A 13 and 15.

6 Q 13 through 15; is that correct?

7 A Yes. Well, yes, the report I did starts on
8 13. We can refer to either one. I'm familiar with
9 both of them.

10 Q I'm just looking for the end page of your
11 report, would that be page 17?

12 MR. FISHMAN: Maybe perhaps we're confused
13 by whether the 302s that are appended to the report
14 are part of the report or not.

15 MR. JOHNSON: Let's assume for our purposes
16 here that they are not.

17 THE WITNESS: Okay. 17, I think, ends it.

18 BY MR. JOHNSON:

19 Q That's the conclusion of your summary, I
20 take it?

21 A Yes.

22 Q On page 15 -- I have a couple of questions

1 I want to ask you about it, but as you refer to page
2 15 -- of your page 15 in FBI document production
3 number, which is the second or third page of your
4 report, can you tell from looking at this whether or
5 not any part of that report has been redacted or
6 deleted or did it just end in the middle of the page
7 that way?

8 MR. JOHNSON: I'd be guided by counsel on
9 this.

10 MR. FISHMAN: When the FBI redacts
11 documents, it's indicated that they're redacted.

12 BY MR. JOHNSON:

13 Q And no redaction is indicated here?

14 A No.

15 Q So it's your best guess that there is
16 nothing redacted from this report?

17 A That's correct.

18 Q Let me read to you the segment that I want
19 to ask you a couple of questions about. "All
20 individuals having been in Foster's office prior to
21 its being sealed at 10:00 a.m. on 7/21/93 were
22 interviewed and admitted being in the office, but

1 stated they had not seen the 27 pieces of paper and
2 that they had not removed anything from the office."
3 Do you see that?

4 A Yes.

5 Q And those individuals are the people that
6 you described earlier, Mr. Nussbaum, Ms. Thomasson,
7 Ms. Williams and Ms. Pond?

8 A Yes.

9 Q And every one of those people told you that
10 they had been in the office; is that correct?

11 A That's correct.

12 Q Now, you and I had briefly discussed
13 earlier the 302 of your interview with Mr. Nussbaum,
14 which are document numbers 21, 22 and 23, and you had
15 observed that this does not deal with his activities
16 on the evening of the 20th; is that right?

17 A That's right.

18 Q And so -- and I think you also told me that
19 you didn't conduct any other interviews of
20 Mr. Nussbaum other than this one; is that correct?

21 A That's correct.

22 Q So for your conclusion that Mr. Nussbaum

1 stated that he didn't remove any documents from
2 Mr. Foster's office on the evening of the 20th or the
3 early morning hours of the 21st, am I correct that
4 you're relying on his statements to the large group
5 in the meeting on the afternoon of the 21st of July?

6 A Yes.

7 Q Okay. I'm now looking at page 57, which is
8 your FBI 302 interview with Margaret Williams. Do
9 you see that?

10 A Yes.

11 Q And does this -- am I correct that this is
12 the 302 that you prepared after your interview with
13 Ms. Williams?

14 A Yes, it is.

15 Q And this bears document -- for the record,
16 bears document production number 57. Let me read to
17 you a part of this that I intend to ask you a couple
18 of questions about, Mr. Salter. It says "Williams
19 then went to Vincent Foster's office where she
20 observed that Patsy Thomasson was in the office and
21 was sitting at Foster's desk. Thomasson conducted a
22 cursory search of the items on Foster's desk which

1 included picking up and looking through some papers
2 which were located on the desk.

3 "Thomasson stated that she had hoped to
4 find a note or something which would give comfort to
5 Lisa Foster, Vincent Foster's widow. Williams
6 remained in Foster's office for approximately 10
7 minutes and then Williams departed Foster's office.
8 During the time that Williams was there she did not
9 see Thomasson find a note on Foster's desk.
10 Thomasson remained in Foster's office after Williams
11 left."

12 You see that?

13 A Yes.

14 Q Just a couple of clarifying points. It
15 says -- at some point in here it describes the
16 activities of Patsy Thomasson in the office. I take
17 it correctly that in search statements about Patsy
18 Thomasson in the office, if I'm correct, Ms. Williams
19 is telling you that Ms. Thomasson told her certain
20 things at that time; is that a correct understanding
21 of what's written here?

22 A Yes.

1 Q It does not say, so far as I know, in this
2 FBI 302 that Ms. Williams told you that she did not
3 remove anything from the office, but would you read
4 it carefully and tell me whether I've missed it.

5 (Witness reviewed the document.)

6 A No, it does not say that she took anything
7 out of the office.

8 Q And it also doesn't say that she said she
9 didn't take anything out of the office. It's silent
10 as to whether or not Ms. Williams removed anything
11 from Mr. Foster's office; am I right about that?

12 A Yes.

13 Q Notwithstanding that, do you have a clear
14 recollection of asking Ms. Williams whether or not
15 she personally removed anything from Mr. Foster's
16 office?

17 A Yes.

18 Q And what's your recollection about her
19 answer?

20 A She said she did not remove anything from
21 the office.

22 Q Is there a particular reason that you may

1 not have recorded that in the 302 that you recall
2 here today?

3 A No. It probably should have specifically
4 said that, but I think when I talked to her it was
5 just the -- I know that she told me she was in there
6 for only a brief time. She described that she came
7 in and sat down at the couch and only sat at the
8 couch and didn't go to the desk and Patsy Thomasson
9 was over at the desk and she stayed there for about
10 10 minutes and left.

11 And I guess again it should say
12 specifically that she was asked that, she denied
13 taking anything out of there, but it's just from the
14 tone of the interview that she said she was only in
15 there for a moment and went to the couch and then,
16 after 10 minutes, left.

17 Q And just so I'm clear because I confused
18 myself a little bit. Is it your testimony that you
19 remember asking her whether she took anything out and
20 that she said no, or are you saying that from the
21 tone of the interview it was obvious to you that she
22 hadn't taken anything out?

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1 A No, I asked her specifically whether or not
2 she took anything out.

3 Q Mr. Kravitz reminds me to ask you whether
4 or not we have handwritten notes of that interview.

5 MR. FISHMAN: Can we go off the record for
6 a second.

7 (Discussion off the record.)

8 MR. JOHNSON: Could you read back the last
9 question and the last answer.

10 (The reporter read the record as requested.)

11 BY MR. JOHNSON:

12 Q Now, in your questions to specifically
13 Ms. Williams, but really to any others that you
14 discussed being present in Mr. Foster's office that
15 evening, did you limit your questioning to whether
16 documents were removed from Mr. Foster's actual
17 office or did you also ask whether any documents had
18 been removed from the White House counsel's suite?

19 A I only inquired about specifically from
20 Mr. Foster's office.

21 Q So if someone had removed documents from
22 the White House counsel's suite on that evening, it's

1 possible that they could have truthfully answered
2 your questions and still not told you that in the
3 interview; is that correct?

4 A I guess it's not clear to me what you mean
5 by "the White House counsel's suite."

6 Q Go ahead.

7 A My questions were very specific, and I was
8 concerned with people who went into Mr. Foster's
9 office, just that little office. And I know since
10 there were only a few of them I asked each of them I
11 think it was two questions, did you take anything out
12 of the office and did anybody else take anything else
13 out of the office.

14 And I think that's clearly set out in some
15 of the other interviews, especially in -- I know it's
16 in Patsy Thomasson's interview, because she was in
17 the office for so much longer. She was behind the
18 desk. In here it's not glaring because of the
19 circumstances that Margaret Williams told me when she
20 went into the office. I know I asked her those
21 questions because that was the whole point of talking
22 to her in the first place.

1 Q Let me ask you hypothetically, then, just
2 to make sure I've got it, if someone in this case,
3 hypothetically Ms. Williams, had removed documents
4 from Mr. Foster's secretary's desk on that evening,
5 but not from his personal office on that evening,
6 would your questioning have touched on that?

7 A No.

8 (Discussion off the record.)

9 BY MR. JOHNSON:

10 Q Now, Mr. Salter, let me go back to your --
11 how long did your interview with Ms. Williams take?

12 A Probably 15 minutes.

13 Q Your interview with Ms. Williams was about
14 a half an hour; is that correct? Is that what you
15 said?

16 MR. FISHMAN: He said 15 minutes.

17 THE WITNESS: 15 to 30 minutes. I'll say
18 somewhere in there.

19 BY MR. JOHNSON:

20 Q Was anyone present during that interview
21 other than you and Ms. Williams?

22 A There was another agent with me.

1 Q Ms. Williams was not represented by counsel
2 during that interview?

3 A No.

4 Q Was it your impression that Ms. Williams
5 was being truthful?

6 A I can answer how I felt at the time of the
7 interview. I mean --

8 MR. FISHMAN: Fine.

9 THE WITNESS: -- I thought she was being
10 truthful.

11 BY MR. JOHNSON:

12 Q You also interviewed Patsy Thomasson; is
13 that correct?

14 A Yes.

15 Q Let me show you a document that shows FBI
16 production numbers 58 and 59 and ask you if that's
17 the 302 of your interview with Ms. Thomasson?

18 A Yes.

19 Q Okay. Anyone else present during that
20 interview?

21 A Just the other agent that was with me.

22 Q Okay.

1 MR. FISHMAN: I'm sorry. Can you read back
2 the last question and answer.

3 (The reporter read the record as requested.)

4 BY MR. JOHNSON:

5 Q At the end of the second paragraph on page
6 58 that we've been referring to, it says "Thomasson
7 told the interviewing agents that she did not remove
8 any items from Foster's office." Do you remember
9 Ms. Thomasson telling you that?

10 A Yes.

11 Q It also says in the next sentence
12 "Ms. Thomasson added that no one else removed any
13 items from Foster's office either." Do you see that?

14 A Yes.

15 Q Do you remember whether or not you asked
16 Ms. Thomasson whether or not anyone else removed
17 items from Mr. Foster's office?

18 A Yes, I did ask her that.

19 Q Did she state what her basis of knowledge
20 was about on the question of whether or not anyone
21 else had removed documents from Mr. Foster's office?

22 A Her basis of knowledge was, I think,

1 starting with during the time that she was in the
2 office did she see anybody else take any other --
3 anything out of the office, and that's -- that was
4 her basis of knowledge while she was there.

5 Q It indicates that Ms. Thomasson told you
6 that David Watkins directed her to go to the office
7 and look for a suicide note; is that correct?

8 A Yes.

9 Q And is that your recollection of what
10 Ms. Thomasson told you?

11 A Yes.

12 Q Did Ms. Thomasson indicate whether or not
13 she had had, prior to entering Mr. Foster's office,
14 any conversations with anyone else about whether or
15 not to go into the office?

16 A I don't believe she told me she did have
17 any conversation with anyone else.

18 Q For example, she didn't describe to you any
19 conversations she may have had with Mr. Nussbaum on
20 that topic? I don't mean to imply that she did. I'm
21 just asking whether or not she mentioned.

22 A No, the only person she told me about was

1 Mr. Watkins.

2 Q Let me come back to Ms. Williams and ask
3 you how is it -- did Ms. Williams say whether or not
4 she had had any conversations with anyone on the
5 topic of whether or not to go into Mr. Foster's
6 office?

7 A No, she didn't. I believe that her, that
8 she had not talked to anyone else about specifically
9 going into the office.

10 Q Okay. She did tell you about a
11 conversation that she had with the First Lady, I take
12 it?

13 A Yes.

14 Q And just so the record isn't confused,
15 we're now talking about Ms. Williams and not
16 Ms. Thomasson?

17 A That's correct.

18 Q Did she indicate whether or not she had any
19 conversations with Mrs. Clinton on the topic of
20 whether or not she should enter Mr. Foster's office?

21 A She did not indicate that to me.

22 Q Do you have any recollection today about

1 whether or not you asked her that?

2 A I did not ask her that.

3 Q Did you have an occasion to ask

4 Ms. Williams or Ms. Thomasson whether or not either
5 of them made any phone calls while in Mr. Foster's
6 office that evening?

7 A I don't recall specifically whether or not
8 I asked them if they made phone calls from his
9 office.

10 Q Now, you did have a conversation with
11 Ms. Thomasson, I take it, on the topic of whether or
12 not Mr. Foster was the kind of person who would have
13 left a suicide note; is that correct?

14 A I'm sorry. Can you ask --

15 Q Sure, I'm just reading from the bottom of
16 your 302, which is page 58, and the carry-on page to
17 59, where it says Thomasson was -- "she was confident
18 that such a note would not be found. Thomasson
19 described Vincent Foster as a stoic individual who
20 she believed would not have left a suicide note." Do
21 you remember that conversation?

22 A Yes.

1 MR. KRAVITZ: Can you read that again? You
2 said "confident" at some point, which I don't think
3 appears in the document.

4 MR. FISHMAN: It does.

5 MR. KRAVITZ: Oh, I'm sorry.

6 MR. JOHNSON: I might have misread -- I'm
7 reading the last paragraph on page 58, which says
8 "Thomasson stated that on the evening she went to
9 look for the suicide note in Foster's office, she was
10 confident that such a note would not be found."

11 BY MR. JOHNSON:

12 Q Do you remember Ms. Thomasson saying
13 something like that?

14 A Yes.

15 Q How do you suppose that topic came up? Did
16 you ask or did she just offer to you that "I didn't
17 expect to find a note," or words to that effect?

18 A I think we were simply, we were on the
19 subject of -- you know, she said that's the reason
20 why she went there was to look for a note. I don't
21 know -- I can't recall a specific question that I
22 asked her about this that, you know, that made her

1 say this. I think it's simply -- it's something she
2 said while we were on the topic of the note.

3 Q And in the last sentence of the 302 you say
4 that Thomasson stated that Foster "might have killed
5 himself, but he would not have written a note." Is
6 it unusual for you to quote in FBI 302s of this kind
7 or is it really quite routine?

8 A It's not unusual if I'm trying to -- if I
9 want to put that statement in a report, but for that
10 type of statement I'd put it in quotes because that's
11 what accurately conveys what she said. It can't
12 really be put in my own words in a report. It's just
13 more accurate to put it in quotes.

14 Q I guess what I'm asking is whether, as you
15 spoke with Ms. Thomasson on this topic, you thought
16 there was anything remarkable about that comment that
17 she made?

18 A Well, I guess it's kind of a strong
19 comment. Maybe it was a little unusual -- somewhat
20 of an unusual thing to say and that's why I got it in
21 quotes.

22 Q Mr. Salter, as we sit here today, excluding

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1 from your answer anything that you may have learned
2 from your conversations with counsel or anything that
3 you may have learned in your contact, if any, with
4 representatives of the independent counsel, do you
5 have any reason to believe from any source whatsoever
6 that anyone other than the people that we've been
7 talking about entered Mr. Foster's office on the
8 evening of his death and before that office was
9 sealed the following day?

10 MR. FISHMAN: When you say "reason to
11 believe," I'm not sure what that means.

12 MR. JOHNSON: I'm not asking about private
13 suspicions, I'm asking about information from any
14 source whatsoever.

15 THE WITNESS: No, I have no further
16 information.

17 BY MR. JOHNSON:

18 Q Okay. And let me ask a similarly badly
19 phrased question about the potential for document
20 removal. As you sit here today, excluding from your
21 answer anything you may have learned in conversations
22 with your counsel and anything you may have learned

1 in your contacts, if any, with representatives of the
2 independent counsel, do you have any reason to
3 believe that any documents were removed or any
4 things, including documents, were removed from
5 Mr. Foster's office on the evening of his death and
6 before that office was sealed on the 21st?

7 MR. FISHMAN: And, again, the caveat is not
8 speculation or suspicions by him or anybody else in
9 law enforcement, but evidence --

10 MR. JOHNSON: Information from any source
11 other than your own private suspicions.

12 THE WITNESS: No, I have no other
13 information about things being removed from the
14 office.

15 MR. JOHNSON: I may, in fact, be finished.
16 If you'll just give me a moment to review my notes.

17 (Recess.)

18 BY MR. JOHNSON:

19 Q Mr. Salter, in an off-the-record
20 conversation, your counsel's been kind enough to
21 provide us with your original handwritten notes of
22 your interview with Maggie Williams. Have you had an

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1 opportunity to review those?

2 A Yes.

3 Q Okay. And I'm correct, am I not, that the
4 conversation with Ms. Williams that you had on the
5 topic of whether or not she removed any documents
6 from Mr. Foster's office or whether, to her
7 knowledge, anyone else removed any documents from
8 Mr. Foster's office is not reflected in your
9 handwritten notes?

10 A That's correct.

11 MR. JOHNSON: Okay. Counsel, thank you
12 very much for providing those.

13 I think as a matter of our own protocol,
14 what I will do is return to you for now the copy that
15 we've been using with the understanding that you'll
16 produce those to us through more official channels in
17 the future.

18 MR. KRAVITZ: And the record should also
19 reflect that I'm returning my copy.

20 MR. FISHMAN: The record will reflect that
21 all copies have been returned to the Department of
22 Justice and the FBI.

1 BY MR. JOHNSON:

2 Q Mr. Salter, we spent some time discussing
3 your investigation into the handling of the note, and
4 one of the things you said -- and the note I'm
5 referring to in that question is the torn-up note
6 that was found in Mr. Foster's briefcase. And one of
7 the things you were investigating, I think you told
8 us, was the 30-hour delay in handing that note over
9 to law enforcement officials after its discovery; is
10 that correct?

11 A Yes.

12 Q Did you, in the course of your
13 investigation, find any evidence that there was any
14 attempt or intent by anyone to conceal that note or
15 its contents from law enforcement officials during
16 that 30-hour delay?

17 A No.

18 Q Everyone you talked to, I take it, told you
19 that there was never any discussion of not turning
20 that note over; is that correct?

21 A That's correct.

22 Q And I take it you were yourself satisfied

1 with the explanations given for the delay in turning
2 that note over?

3 A I'll say yes, in that, yes, all the --
4 everyone's story was consistent. There was no
5 inconsistencies with that story.

6 Q No suggestion that anyone was being
7 untruthful to you in their explanations?

8 A No, not at all.

9 Q Let me just clean up a couple of things
10 that I may have neglected to ask you. Referring back
11 now to your first arrival at the White House on the
12 morning of the 21st of July, 1993, and really from
13 that point in time forward, did you ever hear that
14 from any source at all that the Park Police had
15 requested that Mr. Foster's office be sealed in the
16 early evening of July 20th, 1993?

17 A No.

18 Q You don't remember hearing that from
19 anybody?

20 A I don't.

21 Q Did you ever hear, same reference point in
22 time, from your arrival at the White House on the

1 morning of the 21st up through and including today,
2 did you ever hear any suggestion from anyone
3 regarding the possibility that a White House employee
4 by the name of Livingstone may have been observed
5 removing a briefcase or any other thing from the west
6 wing of the White House on the morning of the 21st?

7 MR. FISHMAN: Let me ask, simply a matter
8 of form rather than a "suggestion," which was the
9 word that you used in your question, whether he
10 received any "information" rather than a "suggestion"
11 which will take it out of the realm with which we'll
12 be concerned.

13 MR. JOHNSON: Fine.

14 BY MR. JOHNSON:

15 Q Do you understand the question as modified?

16 A Yeah, I think so. I had no information on
17 any individual by the name of Livingstone taking
18 anything out of the office.

19 Q Okay. And the way you phrased your answer
20 makes me just ask whether or not you knew the
21 individual's name, did you have any information
22 regarding anyone removing anything from the White

1 House on the morning of the 21st?

2 A No.

3 Q Mr. Salter, it's been a long day, and my
4 questions have taken longer than I anticipated.
5 You've been very patient, as has your counsel. Thank
6 you very much. I don't have any further questions.
7 I'm sure Mr. Kravitz does and at the end of that, I'd
8 like to say a final word about confidentiality. But
9 on behalf of myself, thank you very much.

10 EXAMINATION

11 BY MR. KRAVITZ:

12 Q Mr. Salter, I actually do have some
13 questions, but really not very much. I'm just going
14 to ask some follow-up questions in some of the areas
15 that Mr. Johnson already raised. And to the extent I
16 have to focus your attention, I'll be a little bit
17 repetitive and I apologize for that. But there will
18 be as little repetitiveness as possible.

19 I want to direct your attention first to
20 July 21, 1993 when you first arrived at the White
21 House complex and were in a room in the Old Executive
22 Office Building along with Park Police officers Hume

1 and Markland. Do you understand?

2 A Yes.

3 Q And I believe that you testified that at
4 some point while you and the Park Police officers
5 were waiting in the Old Executive Office Building
6 that afternoon, one or more of the Park Police
7 officers indicated to you that Mr. Foster's death
8 appeared to be a suicide; is that right?

9 A Yes.

10 Q Was that Captain Hume, do you remember or
11 Detective Markland or both?

12 A I think I got that in discussions with both
13 of them.

14 Q Did Captain Hume say anything to you that
15 afternoon about the Park Police treating the case as
16 a homicide investigation?

17 A I don't recall that coming up, no.

18 Q Did Detective Markland say anything to you
19 that afternoon, July 21, 1993 about his treating the
20 investigation of Mr. Foster's death as a homicide
21 investigation?

22 A No.

1 Q To the contrary, they both told you that
2 they were viewing the investigation as a suicide
3 investigation; is that correct?

4 A To be accurate, they were; it was expressed
5 to me that they were doing a death investigation that
6 at that point appeared to be a suicide.

7 Q Did either Hume or Markland tell you about
8 any fact on July 21, 1993 that in their opinion made
9 this look more like a homicide than like a suicide?

10 A Any fact that made it look more like a
11 homicide?

12 Q Right.

13 A No.

14 Q Did they tell you that all of the facts of
15 which they were aware made this look more like a
16 suicide than a homicide?

17 A Yes.

18 Q I want to direct your attention now to the
19 meeting in Mr. Nussbaum's office late in the
20 afternoon of July 21, 1993. Okay?

21 A Yes.

22 Q You testified that based on what

1 Mr. Nussbaum said in that July 21st meeting in his
2 office, it was your impression that Mr. Nussbaum had
3 been in Mr. Foster's office the night before for only
4 a short time. And I believe you testified that it
5 was your impression that Mr. Nussbaum had only been
6 in Mr. Foster's office for no more than one minute.

7 Have I accurately portrayed your testimony?

8 A Yes.

9 Q What was it that gave you this impression?

10 A I think it was that Mr. Nussbaum said he
11 only went in there and looked on top of the desk
12 looking for an obvious suicide note left there. And
13 he didn't say -- I guess I'll just leave it at that.
14 He said he went in there briefly.

15 Q Is that the only thing that Mr. Nussbaum
16 said in the July 21 meeting in his office about what
17 he had done in Mr. Foster's office the night before?

18 A I think that's all he said, yes.

19 Q Did Mr. Nussbaum say anything in that
20 meeting specifically about how long he had been in
21 Mr. Foster's office the night before?

22 A Let me -- I guess just look back through my

1 notes real quick. I don't recall him saying anything
2 about, specifically about time other than he said he
3 only went in there for the purpose of looking for a
4 suicide note and then left.

5 Q So you don't remember Mr. Nussbaum
6 specifically saying how long he had been in
7 Mr. Foster's office?

8 A No.

9 Q I want to direct your attention now to July
10 22, 1993 and the interview of Deborah Gorham in which
11 you participated. Do you understand?

12 A Yes.

13 Q Now you testified previously that there was
14 an initial phase of your interview of Ms. Gorham, and
15 then at some later time that same day Ms. Gorham and
16 Mr. Neuwirth spoke with you again and Ms. Gorham
17 provided some additional information?

18 A Yes.

19 Q And I believe you testified that at some
20 point after that second conversation with
21 Mr. Neuwirth and Ms. Gorham, you and Detective
22 Markland discussed the possibility that

1 Mr. Neuwirth's presence at the initial interview
2 might have had a chilling effect on Ms. Gorham's
3 providing information to the investigators.

4 Do you remember that testimony?

5 A I think we discussed that, I'm not sure if
6 that's specifically what I said, but okay.

7 Q I'm not trying to put words in your mouth.
8 I'm just trying to summarize so we can focus
9 everyone's attention?

10 A Yes, that's essentially what we talked
11 about.

12 Q If I mischaracterize anything you said,
13 don't hesitate to tell me.

14 A No, you didn't mischaracterize, that's
15 fine.

16 Q Would you agree that it's speculative on
17 your part as well as on Detective Markland's part to
18 wonder whether Mr. Neuwirth's presence had a chilling
19 effect on Ms. Gorham during your interview on July
20 22, 1993?

21 A I guess it was speculative, but -- yes.

22 Q Now just so I'm clear, the second time that

1 you spoke with Mr. Neuwirth and Ms. Gorham on July
2 22, Mr. Neuwirth brought Ms. Gorham back into the
3 room that you were in so that Ms. Gorham could
4 provide this additional information; is that right?

5 A Yes.

6 Q Did you and Detective Markland ever discuss
7 the possibility that Mr. Neuwirth's presence and
8 involvement in this interview actually resulted in
9 your providing additional information that you
10 wouldn't have gotten had he not been present?

11 MR. JOHNSON: You said "your" and you meant
12 "her" provide --

13 BY MR. KRAVITZ:

14 Q I'll -- let me start over. Did you ever
15 discuss with Detective Markland whether
16 Mr. Neuwirth's presence and involvement in these
17 interviews actually resulted in your being provided
18 with more information than you would have gotten had
19 he not been involved?

20 A No, I don't think so.

21 Q Did you take any notes during the search of
22 Mr. Foster's office on July 22nd, 1993?

1 A No.

2 Q And the reason for that is that at that
3 point the Park Police was the lead investigative
4 agency?

5 A No, had there been, had it been appropriate
6 to take notes, I certainly could have. As I, even
7 when they're the lead agency on some of these other
8 interviews, I took notes. I just didn't because
9 there was nothing I guess worth noting at that point.

10 Q You say if it had been appropriate you
11 would have taken notes, I mean, can you give us an
12 example of what you mean. What would have caused you
13 to take notes that afternoon?

14 A If we had, if we had really gotten into a
15 search of the office I probably would have kept a log
16 of items that were, that we reviewed and any
17 pertinent comments about what those documents were.
18 In that case I would have kept notes.

19 Q During the office search on July 22nd, did
20 Mr. Nussbaum say anything about what the files were
21 that he was looking through?

22 A Mostly he would just refer to them as work

1 papers, documents that were pertinent only to his
2 work for the President. He may have identified some
3 documents by their, by the subject. I don't recall
4 what any of those subjects were -- I think I do maybe
5 recall, one was -- God, I hope I recall this right --
6 health care-type research on a specific issue that he
7 was working on for the President. But I don't --
8 there was no further detail.

9 Q And then on August 5th, 1993 you dictated
10 an FD 302 report relating to the search of
11 Mr. Foster's office on July 22, 1993; is that
12 correct?

13 MR. FISHMAN: You have a document number?

14 MR. KRAVITZ: Well, let me just ask him the
15 question first.

16 BY MR. KRAVITZ:

17 Q The document number is FBI 34 through 35?

18 A Yes, it was dictated on the 5th of August.

19 Q And is this FBI 302 report the first
20 written material that you created relating to the
21 search of Mr. Foster's office on July 22, 1993?

22 A Yes.

1 Q Now at the time that you dictated FBI 34
2 and 35, your 302 report, you knew that your focus or
3 the focus of the FBI's investigation was on the
4 possible, any possible obstruction of justice
5 relating to the note that was, that had been
6 discovered on July 26th; is that correct?

7 A Yes.

8 Q And one aspect of the FBI's investigation
9 was a determination whether the torn-up note should
10 have been discovered during the search of
11 Mr. Foster's office on July 22nd, 1993; correct?

12 A Yes.

13 Q So when you were writing or dictating your
14 FBI 302 report on August 5th, did you try to include
15 everything you could remember from the July 22nd
16 search that in your view was relevant to that
17 question, specifically whether the note should have
18 been discovered on July 22, 1993?

19 A Yes. I included everything that was
20 relevant especially regarding the items that were
21 taken out of the briefcase.

22 Q Okay.

1 MR. JOHNSON: May I interrupt you just for
2 a second and let me ask you something.

3 (Discussion off the record.)

4 BY MR. KRAVITZ:

5 Q Mr. Johnson has pointed out to me that
6 actually FBI 72 through 74, which is the teletype
7 message you've testified about sooner -- you've
8 testified about previously dated July 28, '93 may in
9 fact be a document that you created about the July
10 22nd search?

11 A Yes.

12 Q Earlier than the FBI 302 that you created
13 on August 5th?

14 A Yes.

15 Q Then why don't we, just so the record is
16 clear that the 302 is not the first piece of paper
17 you created related to the office search?

18 A Correct, and it's only a matter of how I
19 interpret the question. This, that teletype doesn't
20 document the search, the 302 does and this is, this
21 is the permanent record that I make of that
22 investigation.

1 Q Okay. Just so the record is clear, what
2 you are saying is the FBI 34, 35, your 302 from
3 August 5th, that is the permanent record that you
4 made of the search of Mr. Foster's office on July
5 22nd?

6 A That's correct.

7 Q And in this 302, you tried to include every
8 piece of information relevant to the question whether
9 Mr. Foster's note should have been discovered during
10 the search on July 22, 1993?

11 MR. FISHMAN: Should have been or were --

12 BY MR. KRAVITZ:

13 Q Do you understand the question?

14 A Yes. But this only includes information
15 that was produced during the search. It doesn't try
16 to go back and capture any of the other things I
17 learned in subsequent interviews and then try to put
18 it -- pour it all back in and put conclusions on
19 this. This is only the search of the office.

20 Q Okay. On August 5th, 1993 when you wrote
21 this 302 report, you knew that the torn-up note had
22 been found inside Mr. Foster's briefcase, didn't you?

1 A Yes.

2 Q And you knew that the briefcase in which
3 the note had been found was the same briefcase
4 Mr. Nussbaum had taken papers from during the July
5 22nd office search; right?

6 A Yes.

7 Q And so you included in your 302 report a
8 lot of details about what Mr. Nussbaum did with the
9 briefcase during the July 22nd search?

10 A Yes.

11 Q And you tried to be complete about what
12 Mr. Nussbaum did with the briefcase on July 22nd when
13 you were writing your 302 report, didn't you?

14 A Yes.

15 Q Without regard to your 302 report, let me
16 just ask you some questions about what Mr. Nussbaum
17 did with respect to the briefcase during the July
18 22nd search of the office.

19 What did you see the very first time that
20 Mr. Nussbaum did anything with Mr. Foster's
21 briefcase?

22 A The first time he addressed the briefcase,

1 and it's a little cloudy, I can't really recall. I
2 believe he picked up the briefcase and I was able to
3 see that he did have a leather briefcase that had
4 items in it. And it was clear that he intended to go
5 through the items in the briefcase. I think he kind
6 of picked it up and maybe put it back down, but
7 that's not really clear. What is clear is that when
8 he took the items out of the briefcase it was on the
9 floor next to him.

10 Q What direction was Mr. Nussbaum looking in
11 when he took the items out of Mr. Foster's briefcase?

12 A He was looking down and reached down and
13 picked them up.

14 Q Was he talking at that point?

15 A Probably.

16 Q Was Mr. Nussbaum gesturing with his other
17 hand at that point?

18 A I don't want to be nasty. No, no, he, from
19 what I recall, he was probably describing that he's
20 now going to take the items out of the briefcase and
21 look at them and reaches down and pulls some out and
22 starts going through them.

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1 Q Were you able to tell whether or not
2 Mr. Nussbaum actually looked into the briefcase as he
3 was taking the papers out of the briefcase?

4 A I think when the brief -- after he had
5 taken all the items out --

6 Q Let me focus your attention on that initial
7 time that Mr. Nussbaum reached into the briefcase to
8 take items out.

9 A He was probably, he looked down at the
10 briefcase and he was also looking up and talking to
11 us as he took the items out.

12 Q Well, so, could you tell whether
13 Mr. Nussbaum was actually looking into the briefcase
14 or inside the briefcase at that point?

15 A At least for a moment he did look at the
16 briefcase, yes.

17 Q To see where the papers are?

18 A Right.

19 Q So he could grab them?

20 A Right.

21 Q But after that moment, could you tell
22 whether Mr. Nussbaum looked inside the briefcase

1 either as he was pulling them out or after they were
2 out of the briefcase?

3 A I think after he had his hand on them and
4 pulled them out of the briefcase, he was looking at
5 the desk and the papers on the desk.

6 Q Okay. So once Mr. Nussbaum had his hand in
7 the briefcase and was pulling papers out of it, his
8 attention was focused, you said, away from the
9 briefcase; correct?

10 A That sounds correct, yes.

11 Q Now you testified that you thought, you
12 think it's possible that Mr. Nussbaum went into the
13 briefcase a second time and pulled more papers out?

14 A I think that's what he did.

15 Q That second time, was Mr. Nussbaum's
16 attention focused the same way it had been the first
17 occasion?

18 A Yes.

19 Q That is, so that is he looked at the
20 briefcase to see where the papers were but as he was
21 pulling them out and after he pulled them out, his
22 attention was focused away from the briefcase?

1 A Yes.

2 Q What was the next point, if any, at which
3 Mr. Nussbaum did anything with regard to that
4 briefcase?

5 A It was when he picked the briefcase up and
6 demonstrated that it was empty and then placed it
7 behind him.

8 Q How did Mr. Nussbaum demonstrate that the
9 briefcase was empty?

10 A He picked it up by the, using both hands,
11 picked it up by both handles and kind of held it up
12 in the air.

13 Q Where did he hold it?

14 A He just picked it up off the ground and
15 held it above the level of the desk.

16 Q In front of him or off to the side?

17 A I think like off to the side, like to his
18 right, as I'm demonstrating here and he demonstrated
19 that it was clear, by the way he picked it up, it was
20 empty. You could tell it didn't still have a lot of
21 things in it.

22 Q I don't understand. Why do you say that?

1 A It just appeared to be light. It was
2 empty. He picked it up and it was -- and I think --

3 Q In other words, it didn't appear that
4 Mr. Nussbaum was straining from the weight of holding
5 the briefcase?

6 A Right. Looking at it from the outside, it
7 was of course a soft-sided briefcase, it wasn't
8 bulging from anything in it. It appeared to be
9 empty.

10 Q Did Mr. Nussbaum do anything other than
11 simply holding the briefcase up by the two handles?

12 A I recall him picking it up and opening it
13 up a little bit and saying like he's saying, see,
14 it's empty and then placing it behind him.

15 Q Now, did Mr. Nussbaum actually say anything
16 about the briefcase being empty or simply gesture?

17 A I think he said that it was empty.

18 Q You think he said that, do you remember
19 that?

20 A Well, yes, I remember him saying -- yes, I
21 remember him saying -- I don't know the exact words
22 but words to the effect that there is nothing further

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1 in the briefcase, it's empty. And I mean that, I
2 don't mean to say that it was completely empty like
3 it had been vacuumed up and 27 pieces of paper were
4 not in there. I don't mean that. I mean it was
5 empty that there were no further documents still in
6 it.

7 Q I guess that's an important distinction?

8 A It is.

9 Q Do you remember Mr. Nussbaum saying the
10 word "empty" or could you remember him saying "there
11 are no more files in here" or something to that
12 effect?

13 A I don't recall the exact words he used. I
14 just recall that he said something and conveyed to us
15 that there was nothing else in the briefcase to be
16 looked at.

17 Q Did you ever see Mr. Nussbaum -- well,
18 strike that.

19 After the time that Mr. Nussbaum took
20 papers out of the briefcase for the second time, did
21 you ever see Mr. Nussbaum actually look inside the
22 briefcase?

1 A No.

2 Q Who was the other special agent from the
3 FBI who was present during your interview of Maggie
4 Williams?

5 A Charles Dorsey.

6 Q When did Mr. Dorsey become involved in the
7 investigation?

8 A On the 29th of July.

9 Q Is he another special agent with the
10 Washington Metropolitan Field Office?

11 A Yes.

12 Q Did he take notes during that interview, to
13 your knowledge?

14 A No.

15 Q You testified previously that you thought
16 that Maggie Williams was being truthful during your
17 interview of her. Is that correct?

18 A Yes.

19 Q And does that include the part of her
20 interview in which she told you that she had not
21 removed any documents from Mr. Foster's office?

22 A Yes.

1 Q What was it about what Ms. Williams said or
2 about the way she appeared that made you think that
3 she was being truthful?

4 MR. FISHMAN: Let me stop for a second. I
5 was perhaps slow on the uptake or marginally
6 reluctant to object to whether he concluded that
7 witnesses were truthful before or not. I mean, I
8 think to the extent that this reflects his analysis
9 of facts and his own thought processes about whether
10 people were or not truthful, I mean perhaps, perhaps
11 we should have stopped, perhaps we should have
12 stopped to talk about this particular line of inquiry
13 when Mr. Johnson was doing the questioning in this
14 area before, and I don't, I'm not sure it would be
15 appropriate to go any further with that particular
16 analysis. He said that he thought she was truthful.

17 MR. KRAVITZ: Well, I don't know, I guess,
18 I guess I would agree as a preliminary matter that
19 this has a marginal relevance, to begin with, what
20 someone's opinion is. But I do think that, you know,
21 once we've gotten into it and I don't anticipate
22 going a lot further into it. But he's made a

1 statement that he thought she was truthful and I
2 think we ought to be able to go into what he based
3 that opinion on. And I don't really think it's, I
4 mean this is really not an expert law enforcement
5 type of opinion. I think it's just anyone can have
6 an opinion as to whether someone is being truthful or
7 not.

8 MR. FISHMAN: I'm not suggesting that. If,
9 however, we are going back to Mr. Johnson's -- I
10 don't want to call it a standard because it's not
11 appropriate to use the same standard, but that's
12 certainly not something that an FBI agent would
13 normally be able to testify about, which is whether
14 someone was truthful or not. He has testified that
15 there were facts not -- there were no facts
16 inconsistent with what she said and so forth.

17 And so to the extent that there were facts
18 that we're talking about, that's fine. To the extent
19 it goes into simply an opinion about whether a
20 witness was telling the truth again, I don't think
21 that that's, I simply don't think it's an appropriate
22 reason for calling FBI agents to review their --

1 they're not here to review their investigation,
2 they're here to give the facts as they learned them,
3 but not their opinions about the truthfulness of
4 people interviewed.

5 I have no objection to asking him whether
6 how she appeared, whether she was nervous, whether
7 she was, I mean those sorts of his observations, and
8 to the extent that he compared her -- what she told
9 him with other facts, I don't have an objection to
10 that, but the ultimate conclusion I think is not, is
11 not something we --

12 MR. KRAVITZ: You really don't want me to
13 ask him what he based his opinion, that she was being
14 truthful, on. Do you really have a problem with
15 that?

16 MR. FISHMAN: Well, what I have a problem
17 is the initial question about whether she was
18 truthful.

19 MR. KRAVITZ: But that's already out there.

20 MR. FISHMAN: No, I understand that but as
21 I said, it may have been --

22 MR. KRAVITZ: I think this is a fair

1 follow-up question. I promise I'll limit it to one
2 question.

3 MR. FISHMAN: All right.

4 BY MR. KRAVITZ:

5 Q Mr. Salter, on what do you base your
6 opinion that Ms. Williams was being truthful during
7 your interview of her?

8 A It was that her, the answers to her
9 questions, the answers to the questions I asked her
10 appeared to be -- I mean they were consistent with
11 the other information I had gotten up to that point.
12 I mean, she didn't refuse to answer any questions.
13 She wasn't evasive. She didn't hesitate when -- she
14 answered the questions, you know, right away. It was
15 just there was nothing that led me to believe that
16 she was being anything but truthful.

17 (Pause.)

18 BY MR. KRAVITZ:

19 Q Before you dictated your 302 report on
20 August 5th, 1993, the report that is marked FBI 34
21 and 35, the report that relates to the July 22nd
22 search of Mr. Foster's office, did you review any

200

1 Park Police reports relating to that office search?

2 A No.

3 Q Can you give, to the best of your memory,
4 can you describe for us the physical appearance of
5 Mr. Foster's briefcase as you saw it on July 22nd,
6 1993?

7 A It was a leather, soft-sided satchel type
8 briefcase; it was black.

9 Q And how many handles did it have?

10 A I think it had two handles.

11 Q Did it have a zipper?

12 A I don't know. It may have. If it did have
13 a zipper, it only had one, but it may not have.

14 Q Did it have initials on the outside or
15 anything written on the outside?

16 A I don't believe so. And it was, it did not
17 have different compartments. It was simply like a
18 satchel.

19 MR. KRAVITZ: Okay. That's all I have.
20 Thanks.

21 MR. JOHNSON: Mr. Salter, in concluding,
22 let me again thank you for your time today. The

1 confidentiality of these proceedings and the
2 testimony given here today is extremely important to
3 all of us, and we'd be grateful if you wouldn't
4 discuss your deposition here with anyone.

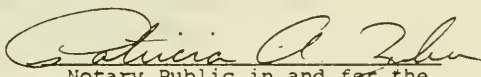
5 Thank you very much.

6 THE WITNESS: Sure.

7 (Whereupon, at 3:49 p.m., the deposition
8 was concluded.)
9

10 -----
11 SCOTT SALTER
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I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

**DEPOSITION OF BILL BURTON
IN RE: S. RES. 120**

WEDNESDAY, JULY 5, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of BILL BURTON, called for examination pursuant to notice of deposition, at 1:49 p.m. in Room 538 of the Dirksen Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.
Majority Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
RICHARD BEN-VENISTE, Esq.
Minority Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

CHARLES M. CARBERRY, Esq.
Jones, Day, Reavis & Pogue
599 Lexington Avenue
New York, New York 10022
On behalf of the Deponent.

THOMAS B. GRIFFITH, Esq.
Deputy Senate Legal Counsel
Office of Legal Counsel
U.S. Senate
Room 642, Hart Building
Washington, DC

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Exhibit CWB 1—Drawing	104, 2289

PROCEEDINGS

1

2 Whereupon,

3

BILL BURTON

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6

EXAMINATION

7

BY MR. CHERTOFF:

8

Q Mr. Burton, before we proceed, I'm just
9 going to go through some preliminary matters with
10 you. This deposition is being conducted pursuant to
11 Senate Resolution 120, which establishes a special
12 committee to conduct an investigation involving
13 Whitewater Development Corporation and various other
14 related matters. Section 1.B.1 of that resolution
15 authorizes an investigation of public hearings into
16 "whether improper conduct occurred regarding the way
17 in which White House officials handled documents in
18 the office of White House Deputy Counsel Vincent
19 Foster following his death."

20

That's going to be the focus of today's
21 deposition. You understand that?

22

A I do.

4

1

Q How were you notified about this
2 deposition? Did you get a letter, or were you told
3 orally?

4

A I had a conversation with my counsel.

5

Q This would be Mr. Carberry?

6

A That's correct.

7

Q In connection with this deposition, have
8 you collected any documents and provided them to your
9 counsel to be furnished to us?

10

A No, I have not.

11

Q On a prior occasion in connection with
12 other proceedings or investigations, have you had
13 occasion to conduct a review of your files and
14 provide certain documents to the White House to be
15 furnished to investigators?

16

A While I was in the White House, before I
17 left approximately a year ago, such occasions arose,
18 and I did those searches, both of my personal files
19 and the files -- my personal files within the chief
20 of staff's office and the files of the chief of
21 staff's office generally. Since I left the White
22 House I took no government documents with me, so

1 there's nothing to search. I don't have anything
2 left to search.

3 Q Let me tell you that it's anticipated there
4 are going to be hearings, public hearings in this
5 matter, starting sometime in the middle of this
6 month, and there's a reasonable likelihood you'll be
7 asked to testify. Obviously we can't determine that
8 until we've concluded the deposition.

9 In this deposition I'm going to ask you a
10 series of questions, and, obviously, you have to
11 answer truthfully under oath. If you don't
12 understand a question, please let me know, and I'll
13 rephrase it. Likewise, I'll ask you not to speculate
14 or guess unless I particularly ask you to do so, but
15 otherwise I want things that you've either known from
16 your own personal knowledge or things that you have
17 heard. I mean, you can tell me hearsay, but I don't
18 want you guessing or just trying to speculate unless
19 I specifically ask you to do so.

20 If you need a break for any reason, let me
21 know, and we'll go off the record. Likewise, if you
22 need to talk to counsel, let me know, and we'll go

1 off the record and you can be excused if you want to
2 consult.

3 Just for the record, your counsel here is
4 Charles Carberry?

5 A That's correct.

6 Q Now, counsel may object to the form of
7 questions. If you'll just allow him to make his
8 objection, objections as to form don't prevent you
9 from answering; you should answer the question after
10 the objection.

11 There may be objections based on privilege,
12 and, if so, please wait until we've resolved the
13 issue here before you answer the question unless
14 you're instructed by your counsel or other counsel
15 not to answer.

16 I can tell you that in the event we can't
17 resolve any differences of opinion about privilege or
18 whatnot amongst ourselves, ultimately it can go to
19 the committee chairman, who would rule on the issue
20 of privilege.

21 The stenographic record of this deposition
22 is going to be held committee confidential until the

1 hearings begin. From the point at which the hearings
2 begin, it may very well be that some portion or all
3 of the deposition will become public in some form or
4 another. Four days before the hearings are scheduled
5 to begin, your deposition will be made available in a
6 reading room so you can come and look at it and make
7 any corrections you want. But I should advise you
8 that if you make corrections other than purely
9 ministerial or clerical corrections, those
10 corrections in themselves could become a basis to
11 redepose you.

12 I will also tell you if you are called as a
13 witness, you will get a copy of the transcript
14 yourself in your own hands four days before the date
15 of your testimony, provided that you and your counsel
16 are willing to keep the content of that deposition to
17 yourselves and not disseminate the content either in
18 written form or orally outside of yourself and the
19 attorneys working with you.

20 Do you understand all of that?

21 A As best I can, yes.

22 Q Is there anything you want me to clarify?

1 A No, thank you.

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6
7

8 Q What's your current business address?

9 A Jones, Day, Reavis & Pogue, 2300 Trammell
10 Crow Center, 2001 Ross Avenue, Dallas, Texas 75201.

11 Q Now, what is your current employment?

12 A I am counsel with the law firm of Jones,
13 Day.

14 Q How long have you been with the firm?

15 A I rejoined the firm on July 1 of last year
16 upon leaving the White House. I had previously been
17 associated with the firm from my graduation from law
18 school in December of 1989 until I joined the White
19 House in April or May of 1993.

20 Q Now, where did you go to law school?

21 A University of Arkansas at Little Rock.

22 Q Did you work at all between college and law

1 school?

2 A Yes, I worked while going to college and I
3 worked while going to law school, and I went -- and I
4 went to law school right after I graduated from
5 college.

6 Q So you worked part-time during your
7 schooling, but you didn't take a significant block of
8 time off in between college and law school?

9 MR. CARBERRY: I think there's a
10 misapprehension in chronology. Bill took a large
11 break between some years of college and finishing
12 college.

13 BY MR. CHERTOFF:

14 Q All right. Did you take a substantial
15 break at some point in your educational career from
16 high school graduation through the end of law school?

17 A Yes, I did.

18 Q What was that break?

19 A It was a break from approximately -- well,
20 while in high school, I began working full-time as a
21 newspaperman, and I continued to work full-time as a
22 newspaperman -- newspaper reporter, editor and

10

1 publisher and then wire service, again related field,
2 throughout my -- throughout college and all except
3 for about the last six months of law school, during
4 which -- so I was a journalist for approximately 15
5 years, 14, 15 years.

6 Q And you went to college intermittently
7 during that period of time?

8 A Well, not precisely. I wouldn't describe
9 it as intermittently. Right out of high school I
10 went to a community college in my hometown of
11 Texarkana for about two semesters, and I went part
12 time. So I had less than a semester of college
13 credit when I decided to go back to college in 1985,
14 and then I enrolled at the University of Arkansas at
15 Little Rock and got my degree one year later and I
16 worked full-time during that year.

17 Q And then you went on to law school?

18 A Then I went on to law school; correct.

19 Q And your graduation date from law school
20 was?

21 A December 1989.

22 Q From that -- from 1990 up until the time

1 you joined the White House in 1993 you worked at
2 Jones, Day?

3 A That's correct.

4 Q In what city?

5 A Austin, Texas.

6 Q How did you come to join the White House?

7 A I was active in the Clinton campaign during
8 the 1992 presidential campaign. Shortly after the
9 election I moved to Little Rock and assisted
10 Mr. McLarty in various transition matters. I joined
11 the transition -- took a leave from the law firm and
12 joined the transition full-time. Subsequently moved
13 to Washington with the transition of the
14 President-elect in late December/early January of
15 '93, and then basically had a 3-month period,
16 3-1/2-month period, I guess, following inauguration
17 day where a decision was being made where I would
18 work within the government. And the decision was
19 made that I would join the White House in the chief
20 of staff's office.

21 Q What was the date you joined the White
22 House?

1 A I don't remember precisely. I think it was
2 April or May 1993, but I don't remember the precise
3 date.

4 Q What was your position when you joined the
5 White House?

6 A I don't know if there was a difference in
7 time. At some point, either a couple days after I
8 joined or within a month after I joined, they settled
9 on a title, and I was deputy assistant to the
10 President and policy and staff director for the chief
11 of staff.

12 Q Did you hold that position until you left
13 in July of 1994?

14 A That's correct.

15 Q What were your duties in that position?

16 A That was during the time Mr. McLarty was
17 chief of staff, and I basically worked with
18 Mr. McLarty in helping to direct his staff. He had a
19 personal staff of upwards of a dozen people that
20 varied according to -- you know. And in -- that was
21 the staff that helped him carry out his duties as
22 chief of staff. And that was the staff I directed.

1 Furthermore, I was involved during the
2 campaign quite extensively in energy matters for the
3 campaign, and Mr. McLarty knew that. And I was used
4 in the White House on several -- on several policy
5 fronts that tended to relate in some fashion to
6 energy but obviously, because of the range of issues
7 that came before the White House, covered other
8 issues as well.

9 So it's a little hard to define precisely
10 what it was I was doing, but those are the general
11 areas.

12 Q Since you've had word that you were going
13 to appear at this deposition, have you spoken to
14 anybody about the deposition or what you anticipate
15 testifying about, putting aside your attorney and
16 your immediate family?

17 A I mentioned the fact I was coming to
18 testify to a client and to lawyers that I was working
19 on a lawsuit with in Kansas City that I had to
20 rearrange my schedule as a result of. I haven't
21 discussed the content of my testimony with anyone,
22 other than the exclusions you mentioned.

1 Q Without asking you what you've testified
2 about or been asked about, have you previously had
3 contact with investigators from any branch of
4 government in connection with the matter of
5 Mr. Foster's death and the handling of the documents
6 in his office afterwards?

7 A Yes.

8 Q Putting aside what you've told those
9 investigators or what you've told your attorneys or
10 what you've told your own immediate family, have you
11 discussed your testimony or your interviews with
12 those investigators with anybody else?

13 A No.

14 Q Did you ever have occasion to work with the
15 Rose law firm?

16 A Yes.

17 Q When was that?

18 A During law school I clerked at the Rose law
19 firm.

20 Q Was that during the year or during the
21 summer?

22 A If my memory serves me correctly, it was

1 during the year. During the summer I took clerkships
2 outside Little Rock. Well, I took one clerkship in
3 Little Rock, but the rest of the clerkships were
4 outside Little Rock. So it was during my second and
5 third year of law school that I worked at the Rose
6 law firm intermittently for about 18 months, I
7 suppose.

8 Q What kind of things did you do for the Rose
9 law firm?

10 A I think the kind of things that perhaps
11 were more familiar with summer associates doing in
12 law firms, which amounts to some substantive work on
13 legal matters, researching, writing motions, writing
14 briefs in support of motions, that type of work.

15 Q How did you come to get that clerkship?

16 A I sent a letter to my friend Vincent
17 Foster, who was a senior litigator at the firm, and
18 he interviewed me and hired me for that position.

19 Q How did you first come to meet Mr. Foster?

20 A I don't recall the first time I met
21 Mr. Foster. I knew his family. I lived in Hope,
22 Arkansas for a number of years, which is where his

1 family is from, and his father and I were in business
2 together for a short while.

3 Q Do you remember, generally speaking, when
4 you first got to know Mr. Foster?

5 A I suppose the first recollection I have of
6 meeting Mr. Foster was during a court proceeding in
7 which he defended Walter Hussman's family in a
8 contest of a will that I was a beneficiary of in
9 Hope, Arkansas many years ago.

10 Q At the time you started to work at the Rose
11 law firm, did you work principally for Mr. Foster?

12 A I did a lot of work for Mr. Foster, but
13 worked for several other attorneys as well.

14 Q For whom else?

15 A I can't think of all the different
16 attorneys I worked for.

17 Q Tell us the ones you can remember that you
18 worked for to some significant degree.

19 A I worked for Amy Stewart, for Jess Askew,
20 Jack Druff, Mrs. Clinton.

21 Q Did you work for Mr. Hubbell?

22 A I worked with Mr. Hubbell. I can't recall

1 specifically whether I worked for Mr. Hubbell on any
2 particular matter.

3 Q Without telling me the names of particular
4 clients or betraying client confidences, can you tell
5 me the types of things you worked on for
6 Mrs. Clinton?

7 A I worked on a products liability matter
8 involving one of her clients in a foreign country.

9 Q Anything else?

10 A Nothing else comes to mind, no.

11 Q Now, let me direct your attention to July
12 20, 1993. At that point in time, where was your
13 office in the White House?

14 A I had a desk in the -- a desk and a
15 credenza in what I've always called the reception
16 area for the chief of staff's office suite.

17 Q Was that suite in a corner of the west
18 wing?

19 A Yes, it was.

20 Q Was it in a corner below the White House
21 counsel's suite?

22 A I believe that's right.

1 Q And it's on the same floor as the oval
2 office?

3 A That's correct.

4 Q Can you describe the configuration of the
5 suite?

6 A When you walked into the suite off the
7 hallway, you walked into what I'm labeling the
8 reception area, and we reconfigured it a couple of
9 times, but at this point in time I believe it was the
10 configuration -- I'm going to describe the
11 configuration on July 20.

12 Q Good.

13 A The reception area was the size of a good
14 sized -- a partner's office in a law firm. If you
15 turn to the right, you immediately saw a desk and
16 that was where Mr. McLarty's secretary sat, his
17 personal secretary, Patty McHugh. Right behind her
18 and off to the left a little bit on the right-hand
19 side of the office was a door into Mr. McLarty's
20 office, which was larger than the reception area
21 somewhat. If you turn to the left when you went into
22 the room, there was another door, and that went into

1 the deputy chief of staff's office, which at that
2 point in time I believe was occupied by Roy Neel.

3 Down in the rest of the reception area on
4 the left-hand side along the wall that separates the
5 reception area from Mr. Neel's office were two desks,
6 I believe, at that point in time. The front desk was
7 a receptionist desk where people tended to --
8 volunteers would occasionally sit and other people,
9 too. In the back corner on that side was Mr. Neel's
10 assistant's desk, Laura Spining, and in the
11 right-hand corner of that area was my desk.

12 Q During the period of time you were in the
13 White House from, let's say, the spring of 1993 up
14 until July 20, what was your frequency of contact
15 with Mr. Foster?

16 A It was not -- it was infrequent at best.

17 Q Did you have dealings with the White House
18 counsel's office in general?

19 A Occasionally.

20 Q Who would you principally deal with in the
21 White House counsel's office?

22 A Depending on the kind of issue, I would

20

1 deal with Mr. Nussbaum or occasionally with
2 Mr. Foster, but with virtually all the lawyers in the
3 counsel's office I dealt with at one time or another.

4 Q What awareness, if any, did you have about
5 any work that Mr. Foster did while he was deputy
6 counsel to the President regarding the personal
7 financial matters of the President and the First
8 Lady?

9 A I'm not sure I understand your question.

10 Q During the time that you were working in
11 the office of the chief of staff of the White House,
12 what knowledge, if any, did you have about whether
13 Mr. Foster was working on personal financial matters
14 relating to the President and the First Lady?

15 A I think I had a general knowledge that he
16 was working on some matters for the President and
17 First Lady. Again, I don't recall the source of that
18 information, and I don't know that I would even call
19 it personal. I think it was my general understanding
20 that it dealt with matters like setting up trust
21 funds that were required by financial disclosures.
22 Again, I'm not familiar with the details, but I

1 just -- I don't know that I would characterize it as
2 personal, although it may well have been.

3 Q Did you have any knowledge about his doing
4 work regarding the Clintons' taxes for 1992?

5 A No.

6 Q Had you heard of Whitewater Development
7 Corporation before July 20, 1993?

8 A Yes.

9 Q When did you first hear of it?

10 A I was a newspaperman in Arkansas during the
11 '80s, and I was -- it seems like it was in the news
12 then. I distinctly remember it becoming an issue
13 during the campaign because the President -- I
14 remember there was a New York Times story on the day
15 the President was in Austin, Texas -- which is where
16 I lived -- on a Sunday, I think it was. So that's
17 the first specific recollection I have of Whitewater,
18 was that Sunday during the campaign.

19 Q Was that a story by Jeff Gerth in the
20 spring of 1992?

21 A I believe that's right. I believe that's
22 right.

22

1 Q Did you work when you were in the campaign
2 at all in addressing the Whitewater issue for the
3 campaign?

4 MR. BEN-VENISTE: I think we ought to go
5 off the record for a minute.

6 MR. CHERTOFF: Okay.

7 (Discussion off the record.)

8 (The reporter read the record as requested.)

9 THE WITNESS: I really think the answer is
10 no, but I would like to explain it a little bit. By
11 fluke of circumstances, the Times story broke, if I'm
12 remembering right. And in my memory -- this was a
13 long time ago and there's a lot of things that have
14 happened since then -- but I believe that story
15 broke, like I said, the day the President landed in
16 Austin. That may have been his first public
17 appearance that day.

18 And I just remember as -- I had several
19 roles in the campaign, but I was kind of a campaign
20 person there, so I was with the President -- or the
21 then governor and his staff. And some issues came
22 up, some reporters, it seems like, maybe had

1 questions as to who they would contact, that kind of
2 thing. And I may have helped facilitate some things
3 like that. It was very nonsubstantive. I had no
4 substantive involvement whatsoever in responding
5 to --

6 BY MR. CHERTOFF:

7 Q Other than that day, that particular day in
8 Austin, for the balance of the campaign did you have
9 any involvement at all?

10 MR. BEN-VENISTE: Excuse me, Mike. Hadn't
11 we agreed to put this off and go on to some other
12 area until we could get some clarification from
13 someone in the Independent Counsel's office as to the
14 letter that they were going to send?

15 MR. CHERTOFF: I thought we agreed there
16 wasn't going to be a problem with this witness, but
17 that for you to wait for the letter.

18 MR. BEN-VENISTE: I thought it wouldn't be
19 a problem for you to defer questioning in this area
20 with this witness until you got the letter. That's
21 the problem I was referring to.

22 MR. CHERTOFF: I guess we'll have to call

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1 the witness back if it's going to take that long to
2 get the letter.

3 MR. CARBERRY: I can tell you the next
4 answer is going to be no. There's no -- he has no
5 involvement other than that one day in Austin.

6 MR. CHERTOFF: Let me proceed forward with
7 this. If you want to put objections on the record,
8 then --

9 MR. BEN-VENISTE: Let me put on the record
10 my understanding that the status of the record
11 vis-a-vis the issue of our ability to go into areas
12 involving Arkansas is that we are not supposed to.
13 As a modification of that, you and I and others met
14 with representatives of the Independent Counsel, and
15 the upshot of that was that they were going to send
16 us a letter modifying the injunction against getting
17 into Whitewater. We haven't received that yet, and
18 that is the reference to the letter that's been made
19 on this record by you at this point.

20 Perhaps in view of Mr. Carberry's
21 thoughtful interjection here, we can save some time
22 with this witness and not get bogged down on this

1 issue today.

2 MR. CHERTOFF: I think we can probably not
3 get bogged down today, but since we are putting
4 things on the record, I will put on the record my
5 recollection of what happened, which is that we had
6 agreed, not as a matter of injunction, but as a
7 matter of accommodating with the Independent Counsel
8 not to get into areas that were problems for him;
9 that we had a meeting with the Independent Counsel,
10 actually the deputy Independent Counsel and one of
11 the other senior members of the staff, that we raise
12 the issue of this kind of questioning.

13 My recollection is we were told it was no
14 problem and that a letter would follow to confirm
15 it. Although we haven't received the letter yet, I
16 don't regard the matter to have been left in an
17 unsettled state. And I'm content to rely upon my
18 memory of the meeting. In any case, we will get the
19 letter hopefully today. But let's proceed forward
20 with this witness. Can I get the last question read
21 back?

22 (The reporter read the record as requested.)

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1 THE WITNESS: None that I can remember.

2 BY MR. CHERTOFF:

3 Q Were there people on the campaign that were
4 assigned to address the issue of Whitewater?

5 MR. BEN-VENISTE: Now, this is all into the
6 campaign and Whitewater, not into this witness's
7 knowledge of Mr. Foster's involvement to the extent
8 he was involved in some aspect of Whitewater. And
9 that might be reflected in the documents contained in
10 his office, which is the subject matter of the next
11 area of hearings. You may be happy to rely upon your
12 recollection of what it was that was agreed to. I
13 don't think an inquiry into what other people's
14 involvement was in Whitewater was covered by our
15 understanding, and I am uncomfortable, in view of the
16 representations that have been made as reflected in
17 the resolution, about how we would proceed.

18 I agree with you that the choice of the
19 word "injunction" was not a good one because I don't
20 think that Congress is prepared to accept any
21 injunction by the Independent Counsel. But in terms
22 of an understanding, at least about how we would

1 proceed, it seems to me that going into issues of
2 Whitewater in the presidential campaign with this
3 witness goes far afield of the scope of these
4 hearings.

5 MR. CHERTOFF: I have not even -- I have
6 not only not asked about the underlying Whitewater
7 issue itself, I haven't even asked what people did on
8 the campaign. I'm simply asking which people were
9 assigned to deal with the matter, which I think is
10 plainly relevant to the issue at hand.

11 MR. BEN-VENISTE: How?

12 MR. CHERTOFF: I don't want to argue this
13 in front of the witness, Mr. Ben-Veniste.

14 MR. BEN-VENISTE: I don't think it is
15 plainly relevant, Mike. I think it goes well beyond
16 the scope of what these hearings are to deal with.

17 MR. CHERTOFF: Are you raising the
18 objection here that you think by my asking who on the
19 campaign was supposed to address this issue, I'm
20 entrenching on what the Independent Counsel wants to
21 look at?

22 MR. BEN-VENISTE: Other than objecting to

1 your use of the term "entrenching," which I've done
2 before, I think it is indeed beyond the scope of my
3 understanding of where we're going on these
4 hearings. And I would feel more comfortable if we
5 were to have a letter from the Independent Counsel
6 that sets forth their understanding on this issue
7 before we start going into who did what about
8 Whitewater in the presidential election.

9 MR. CHERTOFF: We're going to mark -- is
10 there some way you can mark the question? And I'll
11 ask -- I'm going to ask other questions, and you
12 can -- if you want to raise the same objection, raise
13 them and we'll mark them.

14 BY MR. CHERTOFF:

15 Q Did Mr. Foster, to your knowledge, have any
16 involvement in dealing with the Whitewater issue
17 during the course of the campaign?

18 MR. BEN-VENISTE: I have no objection to
19 that question.

20 THE WITNESS: As I sit here today, I don't
21 know if he had any involvement, and I don't know if I
22 ever knew if he had any involvement.

1 BY MR. CHERTOFF:

2 Q Did Maggie Williams have any involvement
3 with it during the campaign?

4 MR. BEN-VENISTE: You know --

5 THE WITNESS: I didn't know Maggie Williams
6 during the campaign.

7 MR. BEN-VENISTE: Mike, I think that it
8 might be useful, since you've made a request to get
9 the letter over here, that you possibly go into some
10 other area of inquiry and come back to this if you
11 think it's important.

12 MR. CHERTOFF: I think what I'll do is go
13 through a number of people. If you want to state the
14 same objection, put the objection on the record,
15 we'll mark it, and we'll get back to it.

16 MR. BEN-VENISTE: There's no real need to do
17 that if it's obviated by the arrival of this letter,
18 so why don't we -- if you can find it within your
19 ability to be a little flexible here, to reorganize
20 the order of the questioning so that we could come
21 back to this after the letter arrives --

22 MR. CHERTOFF: I appreciate the

30

1 suggestion. Nevertheless, I'm going to ask the
2 questions. You don't have to have a long argument.
3 If you want to raise your objection, raise the
4 objection, we'll mark it, and we'll move on.

5 MR. BEN-VENISTE: I'm going to object to
6 anything about Whitewater involving other individuals
7 than Mr. Foster at this time until we have
8 clarification.

9 BY MR. CHERTOFF:

10 Q So my question is going to be did Patsy
11 Thomasson have any involvement in the campaign
12 working on the Whitewater issue?

13 MR. BEN-VENISTE: Note my problem with that
14 question.

15 MR. CARBERRY: Are you instructing us not
16 to answer? I mean, I don't know -- this is a
17 procedureless matter.

18 MR. CHERTOFF: I'm not going to insist the
19 witness answer, but I'm going --

20 MR. CARBERRY: Here is my suggestion:
21 You're obviously not going to stop Mike from doing
22 it, as we know. He'll ask his questions; he won't

1 answer now. At the end of the day, if the letter
2 comes, he can answer. If not, we can reconsider
3 whether he should answer at that point.

4 MR. CHERTOFF: That's fine. I'm going to
5 put them on the record, and if there's a question
6 that Mr. Ben-Veniste doesn't want to object to,
7 that's fine. If there's one he does want to, that's
8 fine, too, and you can abide by that objection.

9 MR. CARBERRY: If he objects, we're not
10 going to answer at this time. We'll reconsider at
11 the end of the day.

12 MR. CHERTOFF: Just so it's clear, I asked
13 the question with respect to Patsy Thomasson. You're
14 objecting to that?

15 MR. BEN-VENISTE: Yes, as a conditional
16 objection until we receive this letter that you've
17 indicated is on its way.

18 MR. CHERTOFF: I've indicated we've
19 requested it. I don't have the ability to demand
20 that the Independent Counsel immediately write a
21 letter, so we're kind of stuck.

22 MR. BEN-VENISTE: I don't understand why

1 you feel it necessary to make this record now, Mike.
2 This is not a court proceeding where we're going to
3 get some ruling on something at some later point.

4 MR. CHERTOFF: We might get a ruling on it
5 at some later time.

6 MR. BEN-VENISTE: We can get it answered
7 simply by the ground rules set forth by the
8 Independent Counsel's office, and it's a respect for
9 those ground rules that motivates my pointing out to
10 you that at this point, it's not clear.

11 MR. CHERTOFF: Much as I dislike doing this
12 on the record since I don't know when this is going
13 to be seen or who is going to see it, I have to tell
14 you that having had a meeting for the explicit
15 meeting of resolving this and having left the meeting
16 with a resolution, I am frankly baffled at the notion
17 that these questions, which I think are really quite
18 innocuous and don't pose any threat to the
19 Independent Counsel, why we now have to wait for a
20 letter to confirm something that we were told to our
21 faces.

22 Nevertheless, I don't want to argue about

1 it. I am not going to insist that the witness
2 answer. At the same time I would like to ask my
3 questions because at this point I'm frankly totally
4 unsure as to what you're going to find objectionable
5 or not. State your objections if you have any, and
6 let's move along.

7 MR. BEN-VENISTE: My objection is not based
8 on whether the answer would be innocuous. I think
9 the subject of Whitewater is largely innocuous. But
10 the issue of whether at this point in our hearings we
11 are going to get into Whitewater is one which was the
12 subject of some substantial consideration in passing
13 this resolution, and if we're going to depart from
14 that, I want it to be a clear understanding of what
15 it is we're departing from and to what extent we may
16 depart.

17 Your understanding is that you're not going
18 to get into this very much. To my mind, that is a
19 difficult standard to apply, and if that's what's set
20 forth in the letter from Messrs. Tuley and company,
21 then so be it. We'll try to apply that standard.

22 BY MR. CHERTOFF:

1 Q Do you know who within the campaign had
2 responsibility for addressing the matter of
3 Whitewater?

4 A No.

5 Q Do you know whether Mr. Foster had
6 responsibility for addressing the matter of
7 Whitewater once he came into the White House?

8 A It's my understanding that he was among
9 those involved in working on matters that may or may
10 not be related to Whitewater, depending on how you
11 define that term.

12 Q If we define the term very broadly, was
13 there a group of people in the White House who were
14 responsible for addressing matters relating to that,
15 Whitewater, in the broad sense?

16 A I guess I would genuinely need help in
17 understanding what you mean by "Whitewater."

18 Q By that I mean anything to do with
19 Whitewater Development Corporation, Madison Guaranty
20 Bank, Perry County Bank, Cherry Valley Bank, various
21 financial transactions that in any way involved those
22 institutions. That's what I mean by Whitewater.

1 MR. BEN-VENISTE: I have to object to that
2 characterization of Whitewater. But beyond that, as
3 a matter of clarification, are you asking this
4 witness what his understanding was as of July 20,
5 1993?

6 MR. CHERTOFF: Yes, at the time that
7 Mr. Foster was working on Whitewater.

8 MR. BEN-VENISTE: As to this witness's
9 understanding as of that date as opposed to now, what
10 he may know now.

11 MR. CHERTOFF: The witness indicated that
12 Mr. Foster had been working on --

13 MR. CARBERRY: What he didn't indicate,
14 and I think the question goes to when -- I mean, is
15 it something he knew or something he's read about
16 since?

17 BY MR. CHERTOFF:

18 Q I'm asking based on what -- whether you
19 know from your experience in the White House that
20 Mr. -- not what you've read in the papers; I'm not
21 interested in the newspapers. But from your working
22 in the White House, did you know that Vincent Foster

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1 was working on matters relating to Whitewater?

2 A No.

3 MR. BEN-VENISTE: I object only as to form
4 of your question as to when it was that he knew. I
5 would like to know if your question is directed to
6 his knowledge as of the time of Mr. Foster's death.

7 MR. CHERTOFF: I will break it down.

8 MR. BEN-VENISTE: Thank you.

9 BY MR. CHERTOFF:

10 Q But I want to get the answer first,
11 whether -- from your working in the White House, did
12 you know that Vincent Foster was doing work on
13 Whitewater or Whitewater-related matters while he was
14 in the White House?

15 A What is the timing on the question?

16 Q The timing -- are you asking me on, the
17 timing on your knowledge or the timing on when
18 Mr. Foster worked on it? I'm asking if you learned
19 at any time from your working at the White House that
20 Vincent Foster had been working on Whitewater.

21 A I think I testified earlier that I had a --
22 I came to learn -- and I don't know at what point I

1 did -- I came to have a general understanding that
2 Mr. Foster was involved in some fashion in working on
3 a trust fund for the First Family in some nebulous
4 fashion, that he was working on that. I'm not sure
5 how I came to learn that. That may well have been
6 from reading newspapers about it. I don't remember
7 any conversations about that, for example.

8 I think the record is out there that the
9 first family had a financial investment in something
10 called Whitewater Development Corporation, so do I
11 need to keep going beyond that? That's basically
12 what I'm aware of; those facts are what I'm aware of
13 in that regard.

14 Q In an earlier answer you indicated there
15 were a group of people at the White House who were
16 working on matters relating to this financial issue
17 or Whitewater. Who were these people that you just
18 made reference to?

19 A Well, I'm not sure I agree with your
20 characterization of my previous testimony. There
21 were press inquiries about this nebulous term
22 "Whitewater," and people in the press office tended

1 to answer those questions. When people in the press
2 office had questions to answer, occasionally they
3 would go to various individuals for help in getting
4 the answer to the question.

5 The press people were not the substantive
6 experts. And it's my general understanding, and
7 again I cannot point to you precisely where I came to
8 learn it, that among the people who you could get
9 information from or among the people that the press
10 office -- if, for example, a young press person
11 called me and asked me, do you know anything about
12 Whitewater, I would have said no, but why don't you
13 check with -- and I probably would have listed Bruce
14 Lindsey, perhaps, Maggie Williams is the First Lady's
15 chief of staff, and then I mentioned Vince Foster.

16 I don't know that I would have directed a
17 press person to Vince Foster, but I know or I've come
18 to learn somehow that he was working on this trust
19 fund for the first family. I somehow learned of
20 that, and I just don't recall specifically how I
21 learned of it. And surely the Whitewater investment
22 would have been part of that.

1 Q That's all you know?

2 A That's all I know.

3 Q Did you have much contact with Maggie
4 Williams when you were at the White House?

5 A I worked with Maggie not irregularly.

6 Q On what kinds of things?

7 A A variety of things, ranging from social
8 events to health care.

9 Q Did you have occasion to deal with Patsy
10 Thomasson at the White House?

11 A More regularly.

12 Q What was her area of responsibility?

13 A She was director of administration. I
14 think she was special assistant to the President and
15 director of administration within the office of
16 management and administration.

17 Q How did she relate to Mr. Watkins in
18 position?

19 A He was an assistant to the President --
20 which is, in the White House hierarchy, higher than a
21 special assistant to the President -- and ran the
22 office of management and administration, of which the

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1 department of administration, which she ran, reported
2 to. Therefore, she reported to Mr. Watkins.

3 Q Let me direct your attention to July 20, in
4 the evening. Where were you that evening, let's say
5 around 6:00?

6 A Around 6:00 p.m.?

7 Q Dinner time, let's say.

8 A Probably at or about my desk.

9 Q Did there come a point in time that you
10 learned that Vincent Foster's body had been
11 discovered?

12 A Yes.

13 Q How did you learn that?

14 A Well, the first I heard it, it was reported
15 to me as an unconfirmed, unconfirmed as to who it
16 was, but that a body had been found. That was in a
17 telephone call from Mr. Watkins.

18 Q Do you remember approximately when that
19 was?

20 A It was approximately before the President's
21 broadcast of the Larry King show from the residence
22 of the White House started. I would guess 15 to 10

1 minutes prior to that.

2 Q When did that begin, do you know?

3 A I'm thinking it was 9:00 eastern time.

4 Q Did Mr. Watkins tell you where he was at
5 the time he made this call to you?

6 A No, he didn't. Not that I recall.

7 Q What did you do when you heard this?

8 A I confirmed as much detail as I could from
9 Mr. Watkins, probed it a little bit, and left the --
10 my desk in the White House, in the west wing, and
11 went to the residence to inform Mr. McLarty.

12 Q Did Mr. Watkins tell you how he had learned
13 about this, or where?

14 A He explained to me that he was a duty
15 officer, which was not a phrase I was familiar with,
16 but that as a result, the Park Police had notified
17 him. Law enforcement had notified him. I believe he
18 said Park Police because I believe he gave me the
19 name and telephone number of a Park Police person who
20 was aware of that.

21 Q Was that Major Hines?

22 A I believe that's right.

1 Q Now, you went to the residence and told
2 this to Mr. McLarty. What happened next?

3 A I went back to the west wing and got on the
4 telephone and started trying to confirm the report
5 Mr. Watkins had given me.

6 Q How did you try to do that?

7 A By calling Major Hines and getting names
8 and telephone numbers of other investigators. I got
9 the hospital number, I called a variety of the kind
10 of people that you would call to track down
11 information on something like that. Perhaps the
12 sheriff's office. I don't remember who all I called,
13 but police and medical-type personnel.

14 Q And do you remember how you learned that it
15 was Mr. Foster's body who had been discovered?

16 A Later in the evening, later in the evening
17 I talked with either Craig Livingstone or Bill
18 Kennedy. Both were out at the hospital where
19 Mr. Foster's body was. And they were the ones who
20 said it was Vince, told me, and that confirmed it.
21 During the approximately 30 to 45 minutes when I was
22 on the phone with these police officers and whatnot,

1 I came to understand that it was Mr. Foster's body
2 that had been found.

3 Q Did you notify Mr. McLarty about that?

4 A Yes, approximately 9:45, thereabouts, I
5 went back to the residence and told Mack that, while
6 we haven't had a relative or a friend go out and
7 identify the body, it's pretty clear it was Vince's
8 body that had been found at Fort Marcy Park.

9 Q Now, at this point in time when you went to
10 tell Mr. McLarty this, what was your understanding
11 about what tentative conclusion, if any, had been
12 reached concerning the cause of death?

13 A I don't remember if it was at that point,
14 but -- I take that back. I do recall. By that point
15 I had learned that the Park Police had realized it
16 was a suicide.

17 Q Did you hear this from the Park Police or
18 from somebody else?

19 A I believe it was from an officer who was at
20 the scene who described in some fairly specific,
21 fairly graphic detail the scene and why it was a
22 suicide, why it was clearly a suicide.

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1 Q Now, you remember having a telephone
2 conversation with Major Hines during this period of
3 time on the evening of July 20; correct?

4 A Yes.

5 Q And what did he tell you concerning
6 securing Mr. Foster's office?

7 A I don't recall any discussions with
8 Mr. Hines about securing the office.

9 Q Did you have discussion with anybody about
10 securing the office?

11 A I do not recall on that evening talking to
12 anybody about securing the office.

13 Q Is there another time you remember having
14 conversation about securing the office?

15 A Yes.

16 Q When is that?

17 A There came a point subsequent to the night
18 of the death when there was -- an issue arose as to
19 whether the office was secured, who ordered it
20 secured, when it was unsecured for purposes of a
21 search. And I think there were some press reports,
22 for example, that Mr. McLarty had ordered the office

1 sealed that evening. And those -- I remember vaguely
2 the discussions coming up in that context.

3 Q What discussions do you remember coming up?

4 A I remember press reports, and I remember
5 specifically press -- media persons asking me did
6 Mr. McLarty order the office sealed. I remember that
7 conversation.

8 Q What did you answer them?

9 A I answered I will check into it.

10 Q Did you check into it?

11 A I don't recall that I ever did.

12 Q Did you find out whether Mr. McLarty had
13 ordered the office sealed?

14 A I don't know that I ever found that out.
15 If he had ordered the office sealed, he likely would
16 have done so in a conversation with me, and I don't
17 recall him ordering the office sealed in a
18 conversation with me.

19 Q Now, you remember having at least one
20 conversation with Major Hines on the telephone that
21 evening; correct?

22 A Yes.

1 Q On the 20th.

2 A Yes.

3 Q And give me your best recollection of that
4 conversation.

5 A Other than the fact I recall talking to
6 him -- and one of the reasons I remember talking to
7 him is I have reviewed notes, and he is in notes that
8 I took that evening. I talked to several people that
9 evening on the police officer side of things, but
10 other than that, I do not recall the specifics, for
11 example.

12 I know I talked to somebody who gave me
13 telephone numbers and names of other police officers
14 to talk to, but other than that, I don't recall
15 anything about that conversation.

16 Q Well, let me ask you this: Did Major Hines
17 or any other Park Police officer or representative
18 ask you on the evening of July 20 to see to it that
19 Mr. Foster's office was secured or sealed?

20 A I do not remember.

21 Q You don't remember one way or the other?

22 A That's correct.

1 Q Do you remember Sylvia Mathews? Do you
2 remember who she was?

3 A Oh, sure.

4 Q And what was her position on July 20, 1993
5 in the White House?

6 A I think she was -- she had the equivalent
7 of executive assistant to the director of the
8 National Economic Council position

9 Q And do you remember whether she was around
10 on the evening of July 20, 1993 at the White House?

11 A Yes, she was, and I remember that.

12 Q Was she actually in that, what you've
13 described as the reception area of the White House
14 chief of staff?

15 A She was for part of the evening. She sat
16 at Patty McHugh's desk during part of that evening.

17 Q Where were you sitting when these phone
18 calls were being made?

19 A During the 9:00 to 9:45 period, I think I
20 was sitting primarily at my desk. I then went back
21 over to the residence and talked to Mr. McLarty and
22 came back. And I think that's where I saw Sylvia for

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1 the first time, at Patty's desk.

2 She offered to help with the telephones. I
3 took her up on the offer and I went into
4 Mr. McLarty's desk so that I could take the calls in
5 private, so I could take and make calls in private,
6 because of the nature of some of the calls I was
7 going to be making.

8 Q During the period of time that Ms. Mathews
9 was there, did you say to her anything about the fact
10 that the office, Mr. Foster's office, should be
11 locked or sealed?

12 A I do not recall that part of the
13 discussion. I may well have, but I don't recall it.

14 Q Did you say in her presence that Bernie
15 Nussbaum should lock the office?

16 A I don't recall.

17 Q Do you know whether Bernie Nussbaum
18 indicated that evening that he was going to lock the
19 office, Vincent Foster's office?

20 A I do not recall talking with Bernie that
21 evening. I'm confident if he was at the White House
22 that evening, we talked, but I just don't recall that

1 conversation.

2 Q You don't have a recollection one way or
3 the other?

4 A I do not.

5 Q Now, you did take notes; is that correct?

6 A I tend to -- you might be being a bit
7 generous in calling what I do when I'm on the
8 telephone "taking notes." I tend to use a scratch
9 pad. I tend to scratch out parts of discussion. I
10 don't know if you -- "notes" seems to indicate that
11 there is something perhaps a little more formal than
12 what it is I'm doing.

13 Q By the way, during this period between the
14 time that you first went up to the residence to meet
15 with Mr. McLarty when you didn't know whose body had
16 been found and the second visit you made after you
17 had learned or you believed it was Mr. Foster, during
18 that period of time, when you were making phone
19 calls, who else was in the area of the chief of
20 staff's suite?

21 A I don't recall. I don't recall if anyone
22 was.

1 Q Now, when you came back from your second
2 discussion with Mr. McLarty and you saw Ms. Mathews,
3 how much time after that did you spend in the area of
4 the chief of staff's suite?

5 A I spent most of the rest of the evening
6 there.

7 Q And during that rest of the evening, did
8 other people come into the suite?

9 A Yes.

10 Q Who else do you remember being there?

11 A I remember seeing Gene Sperling there, and
12 I remember seeing others, although I don't recall any
13 others specifically.

14 Q Did you see Mr. McLarty there?

15 A I don't recall.

16 Q Did you see Maggie William?

17 A I don't recall.

18 Q Did you see Patsy Thomasson?

19 A I don't recall.

20 Q Did you see Dee Dee Myers?

21 A I saw Dee Dee Myers that evening. I don't
22 recall whether I saw her in the chief of staff's

1 suite.

2 Q I'm going to show you what's been
3 previously marked as Exhibits Z450, 451, 452 and 453,
4 and I would like to ask you whether you recognize any
5 of these writings.

6 (Witness reviewed the documents.)

7 A Yes, I do.

8 Q Who wrote those?

9 A They're in my handwriting.

10 Q Now, directing your attention to 450, are
11 these notes or writings that you took down on the
12 evening of July 20 as you were getting basic
13 information and phone numbers from various people
14 regarding the discovery of Mr. Foster's body?

15 A I can't tell from looking at them if I
16 wrote them that evening or the next day.

17 Q Well, do you see Major Hines' phone number
18 at the bottom?

19 A Yes, I do.

20 Q And do you see Mr. Hubbell's number?

21 A I see the word "Web" and an arrow drawn and
22 a telephone number.

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1 Q Does that help you ascertain when you
2 actually wrote those notes?

3 A I'm going to guess based on that and other
4 parts of them that I probably either wrote them the
5 night of July 20 or the next day when I also spent a
6 lot of time on the phone talking to people.

7 Q Now, to help us kind of go through this, if
8 you could read -- you will see there's some Arabic
9 numerals, 1, 2, 3, 4. If you could read what is next
10 to each of those Arabic numerals.

11 A To the best of my ability, it says "secure
12 office" under 1. And then there is a name out beside
13 it that says it looks like Brant Buck.

14 Q Was Brant Buck a partner at the Rose law
15 firm?

16 A I believe he was. I believe he was. I
17 don't know Mr. Buck.

18 Q Number 2?

19 A Number 2, I can't make out the first word.
20 I would be guessing. Do you still want me to do
21 that?

22 Q Give us a guess on that.

1 A "Benefit." The second word looks like
2 "fairly." The next word looks like "no." And then
3 perhaps "speculation." Then there is a quote in
4 either -- and either pain or pair is in quote.

5 Under 3, it looks like "not to call hours,"
6 h-o-u-r-s. And under 4, it says "press-office-keep
7 out."

8 Q Can you tell us what those references are,
9 what they denote?

10 A I cannot.

11 Q They don't mean anything to you?

12 A No. I would be guessing to do -- to try to
13 make them out.

14 Q You see the reference below that, "Lisa and
15 kids to Sheila." Do you know what that refers to?

16 A I'm not guessing here, but I'm not
17 positive, but I would suspect -- more than suspect
18 that's Lisa Foster, the widow of Vince Foster, and
19 kids would probably be her kids, which are actually
20 older, in some cases they're adults, to Sheila.
21 Probably a reference to Sheila Foster Anthony,
22 Mr. Foster's sister.

1 Q What does that reference refer to?

2 A I'm not sure. Perhaps it's a reference to
3 Lisa and the kids going to Sheila's.

4 Q Was there a time that Mrs. Foster and her
5 children were at Ms. Anthony's?

6 A I do not know.

7 Q Now, it says here at the bottom, "autopsy
8 7:00 a.m., 7-22-93, two to three hours." Do you know
9 when you got that information?

10 MR. BEN-VENISTE: In fairness, that's
11 written upside down.

12 MR. CHERTOFF: I know. It's towards the
13 bottom written upside down.

14 THE WITNESS: I do not remember when I got
15 that information. I do not remember when I got that
16 information.

17 BY MR. CHERTOFF:

18 Q Do you know this number? Where it says
19 "Webb, 363-5743," is that Mr. Hubbell's home number?

20 A I don't know Mr. Hubbell's home phone
21 number.

22 Q Do you know what number that is?

1 A I do not.

2 Q Was it a cell phone number?

3 A I don't recognize the number.

4 Q The number 514-5000, is that the main
5 Department of Justice number?

6 A I would guess that, partly because it ends
7 in a zero zero zero. I'm not familiar with the 514
8 prefix, though.

9 Q Does the reference "secure office" help you
10 determine that this was written on the night of the
11 20th?

12 A No. As I think I testified earlier, I
13 don't remember any discussion that night about
14 "secure office," and this doesn't refresh my
15 recollection in any fashion.

16 Q Well, when do you remember the first
17 discussion about securing the office?

18 A Other than the one I mentioned earlier,
19 which I do not remember when it came up, although I
20 think it must have come up the next week because I
21 think the issue of when the office was secure arose
22 after the note was found. I remember on the morning

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1 of the -- the day we did the search of the office,
2 that the office was sealed. I do remember that. And
3 I don't remember if we discussed it that day or not.

4 Q Did Mr. Watkins indicate to you in his
5 telephone conversation with you on the 20th that he
6 had indicated that the office, Mr. Foster's office,
7 would be sealed?

8 A I don't remember discussing that with
9 David.

10 Q You don't remember it one way or the other?

11 A That's correct.

12 Q Did you have a conversation on the evening
13 of the 20th about trash from Mr. Foster's office?

14 A Yes, I did.

15 Q Who did you have the conversation with?

16 A Ms. Mathews.

17 Q How did that come up?

18 A At one point when I came from Mr. McLarty's
19 office, if my memory serves me correctly, Ms. Mathews
20 was on the floor next to Ms. McHugh's desk going
21 through a small trash sack, and we had a conversation
22 about where that trash had come from.

1 Q And what was the conversation?

2 A She said that she got concerned that they
3 would be -- have cleaned Vince's office, and so went
4 to see that, and, in fact, it had been cleaned,
5 somehow ascertained which trash that had been picked
6 up out of his office was his, brought that to the
7 chief of staff's office and was going through it,
8 looking to see if there was any kind of note, for
9 example, a suicide note.

10 Q Was this the first conversation you had had
11 that evening about the possibility of a suicide note?

12 A I don't remember any others. It seems like
13 reviewing my notes made me remember that I asked one
14 of the police officers if a note had been found and
15 was told no.

16 Q Was that Major Hines?

17 A I don't remember if that was Major Hines.
18 I talked to several police officers that night. The
19 officer who described the suicide scene in some
20 detail, whose name escapes me now but I do not
21 believe it was Major Hines, is probably the more
22 likely candidate who would have told me that, but it

1 may have been that I also discussed it with
2 Mr. Hines.

3 Q Now, what is there about this set of notes,
4 450, that reminded you that on July 20 you talked
5 about whether there was a suicide note with one of
6 the officers?

7 A What is it about this note, 450?

8 Q Yes.

9 A Nothing about this note.

10 Q You said there's -- something about your
11 notes caused you to remember. Is it the other
12 notes? Is it 451, 452 or 453?

13 A I have reviewed -- I don't see anything on
14 these four pages that reminds me that there was a
15 discussion that night.

16 Q When you say there are notes, though, that
17 reminded you that the issue of the suicide note came
18 up that night, what notes are those? Not these four
19 pages?

20 A Right.

21 Q Well, getting back to your conversation
22 with Ms. Mathews about the trash, what was your

1 response when she told you what she had done in terms
2 of collecting the trash and looking for a suicide
3 note?

4 A I guess I was -- I think it's fair to say
5 that I was a little concerned about that.

6 Q Concerned about what?

7 A Somebody going through Mr. Foster's trash.
8 It just -- it concerned me. It concerned me. Under
9 whose authority are you operating? That's a question
10 that comes up often in working in the White House,
11 because there are things to be done that you don't
12 often know directly whose responsibility that falls
13 in.

14 At the same time, there was part of me that
15 was very relieved somebody had the foresight to go
16 retrieve the trash rather than let it all go out to
17 the dumpsters.

18 I don't remember how we resolved my
19 concern, except that after she went through the trash
20 and found nothing, she put it all back in, sealed the
21 bag in some fashion and put it in Mr. Neel's office,
22 which I described earlier is right next door to the

1 chief of staff reception room, and which otherwise
2 was being unoccupied that night. And I felt more
3 comfortable about the situation once that had been
4 done.

5 Q Didn't she, in fact, make a little
6 inventory, little list of certain things she had
7 found in the trash that she thought might belong to
8 Mr. Foster?

9 A She may have. I don't recall that.

10 Q Did you conclude it was a good idea for her
11 to have intercepted the trash before it could be
12 removed?

13 A Other than what I've already answered --
14 I'll stand on what I've already answered to that. I
15 was concerned about it, but there was part of me that
16 was relieved as well. I don't think I ever drew a
17 conclusion, nor do I think it was my position to draw
18 a conclusion whether it was proper or improper.

19 Q At the point at which you saw Ms. Mathews
20 going through the trash and you had this conversation
21 with her, did it occur to you at that point that some
22 steps ought to be taken to make sure other things

1 weren't removed from Mr. Foster's office?

2 A Well, it's my understanding that the only
3 people that would have removed things from his office
4 were the trash people, and they had already been
5 there, so I can't imagine under what circumstances I
6 would have thought there was a threat that some items
7 may have been taken from his office.

8 Q What about the burn bag? Did you think
9 about the burn bag?

10 A I think the burn bag pickups are done
11 during the business day.

12 Q Isn't it a fact that that evening, at some
13 point, Ms. Mathews also raised with you the question
14 of the burn bag?

15 A She may have. There was -- I had a
16 discussion about the burn bag at, about that time,
17 and that would make sense that it would have been
18 with Sylvia. There was a lot of activity that night;
19 I don't recall it all. My vague recollection is we
20 looked in the burn bag and there was nothing.

21 Q So you do remember looking in the burn bag?

22 A No, I don't remember looking in the burn

1 bag. I remember a reference to a conversation in
2 which I became comfortable with the idea that there
3 was nothing in the burn bag.

4 Q Who was part of that conversation?

5 A As I sit here today, I cannot tell you. It
6 seems to make sense that it would have been Sylvia
7 Mathews.

8 Q Was Mr. Sperling also involved in the
9 conversation?

10 A I don't recall discussing these issues with
11 Mr. Sperling, but it may have happened.

12 Q Was Mr. Nussbaum involved in the
13 conversation?

14 A I don't recall.

15 Q Was there a discussion in which
16 Mr. Nussbaum indicated that he didn't want to have
17 someone going through the burn bags because it might
18 include top secret material?

19 A I don't recall.

20 Q In connection with Ms. Mathews going
21 through the trash or intercepting the trash, didn't
22 she tell you in advance she was going to do that?

1 A If she did, I don't recall it. And I will
2 tell you with respect to the other question you had
3 asked just prior, since my recollection is that I
4 learned there was nothing in the burn bag, that would
5 have been inconsistent with having heard from
6 Mr. Nussbaum that we don't want to go through the
7 burn bag in case there's something top secret in it.

8 Q Didn't Mr. Nussbaum say that Mr. Foster
9 didn't have a burn bag in his office and therefore
10 there wouldn't be anything in the burn bags but
11 things unrelated to Mr. Foster, in substance?

12 A Oh, I do not recall that conversation.

13 Q When you had your conversation with
14 Ms. Mathews about the trash, was Ms. Myers there,
15 Dee Dee Myers?

16 A I don't recall that Dee Dee was there one
17 way or another. And I will tell you, every time I
18 say I don't recall, I mean -- I don't mean no. I
19 mean I don't recall one way or the other.

20 Q You just don't have a recollection.

21 A Right.

22 Q Would it help to refresh your recollection

1 if I read you some notes that Ms. Mathews made at or
2 about the time of these events? I want you to listen
3 to see if this helps you refresh your recollection.
4 "The Park Police called and Bill was on the phone
5 with them. Dee Dee and David were in Mack's office,
6 too. I realized somewhere in the conversation, which
7 I was hearing from one side, that there was no note
8 found in the car. As a matter of fact, I think Bill
9 asked the policeman."

10 Let me just stop for a second. You recall
11 and you've testified that you did have a conversation
12 with a policeman on that evening about a note not
13 having been found; correct?

14 A I do recall that.

15 Q It then goes on to say "I then asked the
16 three of them if anyone had made sure that the trash
17 had not been dumped in Vince's office. At that point
18 Bill said we should get Bernie and lock the office.
19 I am uncertain what time that was but probably after
20 10:00 p.m. I don't remember who told Bernie, but he
21 went up and locked the office."

22 Does that refresh your memory that there

1 was a conversation about Mr. Nussbaum going up to
2 lock the office?

3 A No, it does not.

4 Q You still have no recollection one way or
5 the other?

6 A That's correct.

7 Q "During the evening I don't recall anyone
8 wandering around, especially on the second floor. As
9 a matter of fact, I came upstairs to gather work to
10 do. I was going to sit in Mack's office and was a
11 bit spooked that I was all alone. I said I guess we
12 should make sure the trash had not been dumped, and
13 Bill agreed. I asked the cleaning ladies on the
14 first floor and they said they had already dumped the
15 trash, so I asked them where it was and they took me
16 up to the second floor."

17 Does that refresh your memory that Sylvia
18 Mathews actually talked to you about intercepting the
19 trash before she went and did it?

20 A I will tell you it doesn't refresh my
21 recollection. However, I've known Sylvia pretty
22 well, and I've always found her to be a trustworthy

1 person, so if she says we had that discussion, I have
2 no reason to doubt it. It makes me think that
3 perhaps we did have that discussion. I cannot tell
4 you I remember it, however.

5 Q Do you remember the issue of the travel
6 office, the White House travel office coming up in
7 discussion on that evening, July 20?

8 A I do not recall that.

9 Q Was there any documentation found in the
10 trash or the burn bags that related to the travel
11 office?

12 A I wouldn't know that.

13 Q A report of some kind?

14 A I would not know that.

15 Q It wasn't discussed in front of you?

16 A No. Well, not that I recall. Can I take a
17 brief break?

18 MR. CHERTOFF: Sure.

19 (Recess.)

20 BY MR. CHERTOFF:

21 Q Directing your attention back to the burn
22 bag issue on the 20th, do you remember Mark Gearan

1 and Howard Pastor being involved in the conversation
2 about the burn bag?

3 A I do not remember.

4 Q Do you remember David Dreyer being involved
5 in the conversation about the burn bag?

6 A No.

7 Q Was there debate or discussion about how
8 the burn bag should be handled in your presence that
9 you recall?

10 A I think the answer to that question,
11 meaning either thing, how the burn bag should be
12 handled in my presence?

13 Q Yes. Was there discussion in your presence
14 about how the burn bag should be handled?

15 A I don't recall.

16 Q What did you do that evening after the
17 second time you visited Mr. McLarty until the time
18 you left the White House?

19 A That's a long period of time. I spent the
20 time trying to get more information about the
21 suicide. I spent some time trying to notify people
22 who ought to be notified, relatives, friends,

1 professional colleagues. I spent some time making
2 some logistical arrangements as to where people were
3 going to be. I spent some time assisting perhaps on
4 the press release that went out that night. I
5 commiserated with friends and colleagues at the
6 office, and I think that pretty well covers it.

7 Q Who prepared the press release that went
8 out that night?

9 A The press office, but I think Mr. Dreyer
10 was involved in that.

11 Q And he was director of communications?

12 A No, Mr. Gearan was director of
13 communication. Mr. Dreyer was in the communications
14 office, perhaps one of the deputy directors.

15 Q Do you recall what the press release said?

16 A No, I do not.

17 Q When did you leave the office?

18 A Early in the morning, 3:00 or 4:00 in the
19 morning perhaps.

20 Q And during the time you were there, where
21 were you -- were you exclusively in the suite of the
22 chief of staff?

- 1 A No.
- 2 Q Where else were you?
- 3 A I spent some time in the press office that
- 4 I remember, but other than that, those are the only
- 5 places I remember being.
- 6 Q Now, where is the press office relative to
- 7 the chief of staff's office?
- 8 A It's in the opposite corner of the west
- 9 wing.
- 10 Q On the same floor?
- 11 A Yes.
- 12 Q Did you have occasion to go on the floor
- 13 above where the counsel's office is during that
- 14 evening?
- 15 A I don't recall.
- 16 Q One way or the other?
- 17 A Correct.
- 18 Q Now, do you have a mobile telephone?
- 19 A Yes, I do. I did at that time.
- 20 Q What was the number of the mobile telephone
- 21 in July 1993? What was your number?
- 22 A I don't remember.

- 1 Q Was it 365-2756?
- 2 A That's a familiar number to me. It well
- 3 could have been.
- 4 Q Were you making calls from your mobile
- 5 telephone while you were at the White House?
- 6 A I can't imagine under what circumstances I
- 7 did it that evening. I'm not going to say I've never
- 8 done it, but I can't imagine having done that that
- 9 evening.
- 10 Q I'm going to just show you detail from your
- 11 phone bills, Z688 and Z689. And directing your
- 12 attention to the numbers where it says "area number,"
- 13 you will see that some of the numbers bear the first
- 14 three numerals, 000 and then it has like a 7111 or
- 15 6797. Do you know why it is that those numbers don't
- 16 give you the first three digits?
- 17 A Well, I'm not at all familiar with these --
- 18 this form of report. I've never seen this form of
- 19 report before today, but assuming it's a record of
- 20 telephone calls made from my cellular phone number,
- 21 one of the things -- one of the good things about the
- 22 White House telephone system was that you only had to

1 dial the last four numbers of the number -- last four
2 or last five digits. I don't remember if you had to
3 dial like a 6-1414, to get the White House
4 switchboard or not.

5 Q Was your cellular phone hooked into the
6 White House interchange?

7 A Yes.

8 Q Or exchange number?

9 A Right.

10 Q So that when we have numbers 000 and then
11 four digits afterwards, you would infer that those
12 are numbers that are White House extensions?

13 A Yes.

14 Q Do you recall who had extension 7111 during
15 July of 1993?

16 A I do not.

17 Q Do you recall who had 1699?

18 A Yes, I do.

19 Q Who?

20 A Mr. McLarty.

21 Q Do you remember who had 1414?

22 A That was the White House switchboard.

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1 Q The main switchboard?

2 A Correct.

3 Q Now, when did you come in the following
4 morning, the 21st?

5 A I believe I was there for the 8:00 staff
6 meeting the next morning.

7 Q Was there discussion at that meeting about
8 Mr. Foster's death?

9 A I am sure there was, but I don't recall
10 what that discussion was.

11 Q Was there a discussion about Mr. Foster's
12 office?

13 A I don't recall any discussion about his
14 office at that meeting.

15 Q Does that mean you don't recall one way or
16 the other?

17 A That's correct.

18 Q Were you given any assignments for July 21
19 regarding the handling of the aftermath of
20 Mr. Foster's death?

21 A I don't recall any expressed assignments.
22 I was working on various logistical aspects of that

1 and continued working on it through the 21st.

2 Q What logistical aspects?

3 A Things like returning valuables to the
4 family, the funeral arrangements, travel for the
5 staff, different things like that. Perhaps some
6 continued contact for at least a while with the law
7 enforcement officials.

8 Q What was your continued contact with law
9 enforcement officials?

10 A The only specific one I can recall was I
11 called Secretary Babbitt that morning to do, as I had
12 done the night before, to inform him that anything we
13 could do to cooperate with the investigation, we
14 wanted to do that.

15 Q Other than calling Secretary Babbitt, did
16 you have any other interchange with law enforcement
17 people?

18 A I may have. I don't recall any other
19 specific contacts with the law enforcement group, but
20 it seems like that continued on into the next day.

21 Q In the late morning between 10:00 and 11:00
22 on the 21st, was there a meeting with various Park

1 Police officials and a number of members of the
2 senior staff?

3 A I don't remember.

4 Q Did you hear about such a meeting?

5 A I have heard about it during the course of
6 the interviews that you and others have conducted of
7 me, but other than that conversation, I don't have
8 any independent recollection of that meeting.

9 Q So you don't know whether you attended it
10 or not?

11 A Correct.

12 Q Is there any other interchange you might
13 have had with any of the Park Police officers besides
14 possibly attending that meeting?

15 A That morning? It's possible that I had
16 other telephone conversations with them, but I don't
17 recall it.

18 Q Do you know what reason you would have had
19 to be talking to the Park Police at that point?

20 A Perhaps -- I think it was that day that I
21 made a concerted effort to get Mr. Foster's personal
22 effects back, and I -- I can only imagine I would

- 1 have done that by contacting the Park Police.
- 2 Q When you say his personal effects, you mean
- 3 the things that were found at the scene in Fort Marcy
- 4 Park?
- 5 A His rings, his wallet.
- 6 Q Do you have any discussion about getting
- 7 his personal effects from his office back to his
- 8 family?
- 9 A Not that I recall.
- 10 Q Did you talk to Mr. Nussbaum about how
- 11 Mr. Foster's property would be handled on the 21st of
- 12 July?
- 13 A I don't recall that.
- 14 Q Did you get involved in formulating
- 15 potential responses to press questions on the 21st of
- 16 July?
- 17 A That's possible. I don't recall anything
- 18 specifically.
- 19 Q I'm going to show you what's been marked as
- 20 Z447, which was given to us and it's been represented
- 21 to us it came from your files and ask you if you
- 22 recognize that.

- 1 MR. BEN-VENISTE: I'm sorry, what was that
- 2 number?
- 3 MR. CHERTOFF: 447. Z447.
- 4 (Witness reviewed the document.)
- 5 THE WITNESS: I don't recognize this
- 6 document.
- 7 BY MR. CHERTOFF:
- 8 Q It doesn't mean anything to you?
- 9 A Well, I assume -- taking questions, that's
- 10 kind of a term of art they use in the White House
- 11 press office when the press secretary doesn't know
- 12 the answer to a question, they take the questions and
- 13 then later issue a statement similar to this format
- 14 in which those questions are answered.
- 15 Q Your responsibilities on the 21st, did they
- 16 include helping respond to taking questions?
- 17 A It very well could have, but I just don't
- 18 recall it. Were those questions taken on the 21st?
- 19 Q I'm just showing you the document. It
- 20 indicates Thursday, July 21. Now, Thursday was July
- 21 22, but July 21 was a Wednesday. I'm asking you
- 22 whether you recognize that.

1 A And I think I've responded that I do not
2 recognize it.

3 Q And you don't know whether you worked on
4 taking questions for the Foster matter either on the
5 Wednesday or the Thursday, July 21 or July 22?

6 A I do not have any recollection of that. I
7 may have.

8 Q Did you meet with Mr. Nussbaum on the 21st
9 or did you talk with him at all on the 21st about the
10 Foster death?

11 A I may have. I don't remember.

12 Q On the 21st was it decided that
13 Mr. Nussbaum would be the person within the White
14 House with principal responsibility for dealing with
15 the investigation of Mr. Foster's death?

16 A Do I understand your question to be would
17 he be the White House person?

18 Q Correct.

19 A I don't recall when that decision was
20 made. And, quite frankly, I don't remember if that
21 decision was made. It seems like at some point, the
22 counsel's office took over that responsibility.

1 Q Was there anybody outside of a member of
2 the counsel's office who was involved in taking over
3 that responsibility?

4 A From within the White House?

5 Q From within the White House.

6 A Not that I recall.

7 Q Was Ms. Williams?

8 A Not that I recall.

9 Q Other than what you've told us about
10 involving trying to get the valuables back to
11 Mr. Foster's family and working on travel, is there
12 anything else on Wednesday the 21st of July, the day
13 after Mr. Foster's death, that you recall about your
14 activities in connection with Mr. Foster's death?

15 A No.

16 Q During the course of that day, did you
17 come -- of the 21st, did you come to learn that there
18 was going to be a review or an examination of
19 Mr. Foster's office by representatives of the
20 Department of Justice and the Park Police?

21 A I don't remember if I learned that that day
22 or the next day, the day the search was actually

1 conducted.

2 Q How did you first come to learn it?

3 A I don't remember.

4 Q Did somebody call you?

5 A Perhaps.

6 Q Was it something that was casual

7 information that you learned or did someone make a

8 point of communicating it to you?

9 A I do not recall.

10 Q Well, on the 22nd when you -- what time did

11 you arrive? That's the Thursday. What time did you

12 arrive at the White House?

13 A I don't recall. There weren't three days

14 when I lived in Washington and was in Washington that

15 I didn't make the 8:00 senior staff meeting during my

16 time at the White House so I'm sure I was there by

17 8:00 on that Thursday.

18 Q Do you know whether in the staff meeting on

19 that Thursday there was discussion concerning a

20 search of Mr. Foster's office?

21 A No, I don't.

22 Q Did there come a time that you were present

1 for an examination or search of documents in

2 Mr. Foster's office?

3 A Yes.

4 Q How did that come to pass?

5 A That I was present?

6 Q Yes.

7 A I was involved in some discussions about

8 the search. I know on the day of the search. I

9 don't recall if I was involved in any discussions

10 beforehand.

11 Q Who were the discussions on the day of the

12 search with?

13 A Different people at different times. There

14 were quite a few discussions that day.

15 Q Working chronologically, and starting at

16 the beginning, tell us what you recall about those

17 conversations.

18 A I remember discussing the fact that there

19 was going to be a search and how that search was

20 going to be conducted with Bernie Nussbaum. I don't

21 remember the specifics of the conversation.

22 Q This is on the 22nd?

1 A This is on the morning of Thursday, the
2 22nd.

3 Q On the morning?

4 A Correct.

5 Q Was it in Mr. Nussbaum's office?

6 A I don't recall.

7 Q Was it by appointment or was it something
8 that occurred by happenstance?

9 A Perhaps something in between. I may have
10 called him or he may have called me or I may have
11 walked in on a meeting that he was having with
12 someone else. I just don't recall.

13 Q What was the discussion about the search?

14 A The discussion was about how the search
15 would be conducted and how the White House would
16 assert and protect the various privileges that might
17 be unveiled by such a process.

18 Q Were you discussing this as a lawyer in the
19 context of giving legal advice on this?

20 A I am a lawyer and was a lawyer at that
21 time. My position in the White House was not as a
22 legal counsel. However, I suspect there are some

1 things about being a lawyer that came to bear on
2 those conversations and my involvement in those
3 conversations.

4 Q And what was -- this is again the morning
5 of the 22nd. What was -- who made the decision --
6 who was going to make the decision about what
7 privileges ought to be asserted?

8 A That was Bernie's decision. As to what --
9 what privileges should be asserted and how they
10 should be asserted.

11 Q Bernie said he was going to make that
12 decision?

13 A I don't know if he said it or just by
14 virtue of his position he would -- we all knew that
15 was Bernie's call to make.

16 Q Who else was involved in the conversations?

17 A At some point during the morning, I had a
18 conversation involving Mack McLarty. Whether it was
19 a one-on-one or with a group, I don't remember. Jack
20 Quinn of the Vice President's staff was also brought
21 in at some point to offer his input. I do not recall
22 specifically, but I'm fairly confident others from

1 the counsel's office, specifically Neuwirth and
2 Sloan, Steve Neuwirth and Cliff Sloan, were
3 involved. And those are the only people specifically
4 I can remember involved.

5 Q Why was Jack Quinn brought in?

6 A I believe that was Mr. McLarty's idea.
7 Jack Quinn was counsel to the Vice President, was --
8 had been in Washington for a number of years, was
9 familiar with some of the privilege issues. Mack
10 used Jack on other matters for his input.

11 Q And what were the privilege issues that
12 were being discussed at this meeting? This was still
13 on the morning of the 22nd.

14 A Morning, approaching the noon hour and
15 possibly going into the early afternoon. I don't
16 remember the time of the search, but I believe the
17 search was in the early afternoon.

18 Q What were the privilege issues being
19 discussed?

20 A Attorney-client privilege, the executive
21 privilege, and I don't remember what other potential
22 privileges were being discussed.

1 Q Now, this was in relation to an anticipated
2 effort by the Park Police and the Department of
3 Justice to review documents; correct?

4 A I'm not sure I would characterize it that
5 way. There was -- as I understand it, what was on
6 the table was a request by the Park Police to see if
7 there was any information in Mr. Foster's office that
8 would help the Park Police determine his cause of
9 death. That was the nature of the investigation that
10 was going on. And we were all working from the
11 assumption that that was the purpose of the request
12 to see what was in Mr. Foster's office.

13 Q So what was the issue that was being
14 addressed in these discussions?

15 A How best to accomplish the legitimate law
16 enforcement goals of the Park Police while preserving
17 the privileges that would be at issue in any -- in
18 the search of any lawyer's office, but particularly
19 the search of the deputy counsel to the President's
20 office.

21 Q Well, what were the various proposals that
22 were under consideration for how to accommodate

1 those?

2 A I don't know that there were -- I don't
3 know that you would characterize it as being various
4 proposals out there.

5 Q Well, was there only one proposal?

6 A No, I'm just not sure I would characterize
7 it that way. I think different people provided
8 different inputs, and together a consensus was
9 developed and that's precisely how the search was
10 conducted.

11 Q Well, what were the various suggestions
12 that were advanced for how to conduct this?

13 A Well, I guess the obvious would be the way
14 it was ultimately conducted were all suggestions at
15 one point or another, that we would let the Park
16 Police and all their law enforcement representatives
17 and their lawyers, including Justice Department,
18 Secret Service, I think maybe FBI and the Park
19 Police, in the office, in Mr. Foster's office, that
20 Mr. Nussbaum would actually review the documents and
21 describe the documents individually one by one, each
22 file folder to the officers. And if there was one in

1 which they had a particular interest in or sounded
2 like it went to the issue they were there for,
3 expressed an interest in it, if you will, he would
4 either let them see it or determine if there was a
5 privilege issue within that document and if so,
6 assert the privilege and decide that later.

7 Those were among the ideas that were thrown
8 out.

9 Q Was there an idea that the Department of
10 Justice lawyers would do an initial review of the
11 documents to see if there was anything that was
12 privileged?

13 A I don't recall that that was one of the
14 options being discussed. I don't recall that. It
15 seems like I would have remembered that one.

16 Q Was there a discussion about a prior
17 agreement with the Department of Justice in which the
18 Department of Justice lawyers would be reviewing the
19 documents first to make a cut on privilege?

20 A No.

21 Q Never heard that?

22 A I've never heard that.

1 Q Did anyone raise the question in that
2 meeting whether the executive privilege even pertains
3 as between the White House and the Department of
4 Justice, which is another branch of the executive
5 part of the government?

6 A When you say "that meeting," which meeting
7 are you referring to?

8 Q The meeting or meetings you're talking
9 about on the morning of the 22nd with Mr. Nussbaum
10 and others.

11 A Was it ever discussed?

12 Q In that series of discussions.

13 A We discussed quite a bit about the
14 executive privilege. I don't remember the nature of
15 all the discussions. Certainly whether or not the
16 privilege applied was among the topics discussed.

17 Q Was there a discussion about whether the
18 President personally had to decide to exert executive
19 privilege?

20 A I don't recall any such discussion.

21 Q Did anybody tell you the President had made
22 a decision to exert executive privilege?

1 A I don't recall.

2 Q You don't recall one way or the other?

3 A Correct.

4 Q Is that the kind of thing you would recall
5 in the context of that discussion?

6 A I don't know that I could answer that
7 question.

8 Q You don't think that the President -- a
9 Presidential decision to assert executive privilege
10 on these documents is something that would stick in
11 your mind one way or the other?

12 A Well, I'm sorry. I think the answer to
13 that last question is yes, I do think such a
14 decision, determining of such a decision, would stick
15 in my mind.

16 Q Does that help you conclude that you did
17 not hear during this series of discussions on the
18 morning of the 22nd that the President had made a
19 decision to assert executive privilege?

20 A If that's a question you asked earlier, I
21 apologize, I misunderstood. I thought you were
22 asking was it discussed whether the President would

1 have to make that decision or not.

2 Q Well, let's be clear. Did you hear during
3 that series of discussions on the morning of the 22nd
4 anything about the President having decided to assert
5 executive privilege?

6 A I don't recall.

7 Q And is it the kind of thing that you think
8 you would recall, given the nature of the subject
9 matter that day and the importance of the
10 conversations?

11 A I was involved in a lot of important
12 conversations during my year and a half in the White
13 House. I think I testified that I would have -- it's
14 fair to state, as you did, that if the President had
15 decided to -- personally decided to exert executive
16 privilege over some of those documents, I would have
17 recalled that. It does seem fair to say that.

18 Q Did Mr. Nussbaum indicate he would make the
19 decision about what documents would be subject to
20 executive privilege?

21 A I don't think we discussed that. It was
22 generally accepted by everybody that Mr. Nussbaum

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1 would be the -- it was understood that as counsel to
2 the President, he would decide whether privilege
3 ought to be asserted over a document or not.

4 Q Did you report back to Mr. McLarty on these
5 conversations?

6 A As I think I mentioned earlier, I remember
7 chronologically, I remember asking a discussion with
8 Mr. Nussbaum earlier in the morning than my later
9 conversation that also involved Mr. Nussbaum and Jack
10 Quinn. And Mr. McLarty is the person, I believe,
11 that got Mr. Quinn involved. And I think he got his
12 input because, you know, it was not a settled issue
13 at that point. We hadn't decided how, and there was
14 more input that we felt was needed.

15 Q Now, where were the Park Police while you
16 were having these discussions?

17 A The conversation was going on that morning
18 at the White House, and as far as I know, the Park
19 Police were not at the White House. I really don't
20 know where they were.

21 Q What about representatives of the
22 Department of Justice, were they at the White House?

1 A Didn't know if they were at the White House
2 or not.

3 Q Did there come a time that there was an
4 agreement reached as to what the procedure of the
5 White House would follow was?

6 A Yes.

7 Q When was that?

8 A Either late morning or early afternoon,
9 right before the search, shortly before the search.

10 Q Who reached that agreement?

11 A I was aware of the search that was going
12 on, but it was Mr. Nussbaum's decision. And
13 generally people that were involved in the discussion
14 I think were comfortable with that decision.

15 Q And those people were who?

16 A Mr. McLarty, Mr. Quinn. I don't recall any
17 dissent from the decision that was reached.

18 Q So Mr. McLarty was actually apprised of the
19 final decision about how this would be conducted?

20 A Well, it's probably unfair for me to say
21 yes, he was. I don't recall any dissent from it. I
22 remember Mr. McLarty being involved in helping reach

1 a resolution by getting Mr. Quinn involved, but no, I
2 can't say as we sit here that Mr. McLarty therefore
3 must have been involved, no. That assumes a step
4 that I can't testify to.

5 Q And this final decision was that
6 Mr. Nussbaum would review all the documents himself;
7 correct?

8 A No.

9 Q What was the final agreement as you
10 understood it?

11 A That all the law enforcement officials and
12 all their lawyers from each of the agencies would
13 crowd into Mr. Foster's office, that Mr. Nussbaum
14 would describe in their physical, visual presence a
15 document that he was looking at. He would read from
16 the label from the document, or he might read the
17 title or he might read through the document, whatever
18 was necessary to explain to me, to get them
19 comfortable that he was giving an accurate
20 description of the document.

21 And then they, the law enforcement
22 officials, and/or their lawyers would have an

1 opportunity to say that's something we would be
2 interested in or not.

3 Q And the agreement was that Mr. Nussbaum
4 would do this with each and every document in
5 Mr. Foster's office?

6 A That's correct.

7 Q How much time did you anticipate allotting
8 for this procedure, to go through all the documents?

9 A I felt like that it would take much of the
10 afternoon and in fact my recollection is that it did.

11 Q Didn't it only take an hour and a quarter?

12 A I don't recall how long it took.

13 Q Now --

14 A It seemed like it took a long time.

15 Q Now, you were present in the room when this
16 happened; right?

17 A I was present much of the time.

18 Q You left -- you came in and out of the room
19 on a couple of occasions?

20 A That's correct.

21 Q Why did you do that?

22 A To take telephone calls.

1 Q Were you beeped in the room?

2 A I may have been. I don't recall.

3 Q Who were the telephone calls from?

4 A I don't recall.

5 Q Was one from Ms. Williams?

6 A I do not recall.

7 Q Would it refresh your recollection if I
8 showed you Exhibit Z951?

9 (Witness reviewed the document.)

10 A Not without more.

11 Q That doesn't help you?

12 A Well, first of all, I don't recognize this
13 operator's initials. I don't recognize "at this
14 time" was during the time the search was being
15 conducted.

16 Q So you just don't have a recollection?

17 A Right, that's correct.

18 Q Did someone go out to retrieve trash from
19 another room and bring it back in?

20 A Into Mr. Foster's office?

21 Q Yes.

22 A I don't recall that.

1 Q Now, I'd like you to describe first when
2 the search began, was there any conversation
3 between -- let me withdraw the question.

4 Do you remember Mr. Margolis from the
5 Department of Justice being present?

6 A I remember there being a couple of Justice
7 Department people that went over -- that were
8 introduced to me as Mr. Margolis.

9 Q Was Mr. Margolis, to your understanding,
10 the senior lawyer present on the law enforcement
11 side?

12 A I've come to understand that. I don't know
13 that I can say I remember it because he was a fellow
14 who -- I just don't know that I remember what
15 Mr. Margolis looked like, but that's consistent with
16 what I know to be the case.

17 Q Did he do most of his speaking for the law
18 enforcement people?

19 A Yes, although he would always defer to the
20 law enforcement people as his clients.

21 Q Did Mr. Margolis raise an objection about
22 the procedure that Mr. Nussbaum wanted to follow?

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1 A Not that I recall.

2 Q Didn't complain about it at all?

3 A Not that I recall.

4 Q Does that mean you don't remember one way
5 or the other or you believe he didn't raise it?

6 A As I've always said, when I say I don't
7 recall I don't recall one way or another. It seems I
8 would have remembered that if he had, but I don't
9 recall.

10 Q I would like you to describe as best as you
11 can what transpired during this procedure. Who was
12 present and what happened?

13 A Mr. Nussbaum was present, Mr. Neuwirth was
14 present, Mr. Sloan was present, I was present,
15 Mr. Margolis was present, another Justice Department
16 official was there, two Park Police investigators
17 were there, representatives of the Secret Service and
18 the FBI were there. I don't remember how many.

19 Q And where were you situated during this?

20 A I was situated behind Mr. Foster's desk and
21 Mr. Nussbaum was at the desk as if he stood up at
22 Mr. Foster's desk where Mr. Foster would be sitting,

1 so I was to Mr. Nussbaum's right and behind him.

2 Q Where were Mr. Sloan and Mr. Neuwirth?

3 A They were to his left and behind him, at
4 least when we started.

5 Q Where were the law enforcement people?

6 A The Justice Department officials were right
7 at the corner of the desk, right in front of the
8 desk. They had like -- they were closest to me of
9 any of the other people in the room.

10 Q But on the opposite side?

11 A That's correct.

12 Q Facing Mr. Nussbaum?

13 A Well, actually kind of angled in toward
14 Mr. Nussbaum, right at the corner of the desk there.
15 Mr. Foster's office was not a big office, and there
16 were a lot of people in there. We were packed in
17 pretty closely.

18 The two Park Police had to kind of like --
19 sitting in the two visitors chairs or were the
20 closest, right in the middle, the two Park Police,
21 and the FBI and Secret Service were packed in around
22 them.

1 Q So the law enforcement people were facing
2 Mr. Nussbaum and you?

3 A Correct.

4 Q And you and Mr. Sloan, Mr. Nussbaum and
5 Mr. Neuwirth were facing the law enforcement people;
6 correct?

7 A Yes.

8 Q What happened?

9 A We -- Bernie started, if I remember right,
10 with the documents atop the desk.

11 Q Were they out on the desk or did he pull
12 documents out and put them on the desk?

13 A If I'm remembering right, he started with
14 the documents on the desk. This was a long time ago
15 and certainly I didn't realize it would be the focus
16 of all of this or I might have taken notes. But it
17 seems like he started with the documents on the desk
18 and he made a couple of piles. One was like to put
19 the documents back on the desk that were there and
20 another was -- I think he started a pile of personal
21 items, such as his insurance, his insurance card or
22 that kind of stuff that you have in your office, one

1 has in his office or her office.

2 He would look at the document. He would
3 describe it, this is Vince's insurance card. I use
4 that purely as an example. I don't remember any
5 specific document he would look at. This is Vince's
6 insurance card. I'll put it here in this stack of
7 Vince's personal stuff. This is a file on the XYZ
8 department that Vince was working on. The file label
9 is such and such, pop open the file, describe
10 generally the documents in it. Nobody would express
11 an interest and he'd put it back down.

12 We went through the documents atop his desk
13 that way. If I'm remembering right, he then went to
14 the briefcases.

15 Q How many briefcases were there?

16 A There were two briefcases, if I remember
17 right. He then went through the desk drawers and I
18 know before we finished up we were opening every
19 drawer in the office. You know, people have a little
20 side table that a lamp sits on next to a sofa, and I
21 remember we were going around and at that point I
22 think law enforcement was even engaged in helping us

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1 open drawers.

2 Q Your recollection is the law enforcement
3 people actually opened drawers?

4 A Right there at the end, right there at the
5 end we were all just making sure we got every nook
6 and cranny and had found -- you know, had looked at
7 everything to make people comfortable.

8 Q And Mr. Nussbaum read each -- the title and
9 description of each and every document that he looked
10 at?

11 A I don't know that you could say he read
12 every document. If there was a file that was clearly
13 a file of a certain type and once he read the label
14 and the Park Police and their lawyers had no interest
15 or concern expressed in it, I don't think he
16 proceeded in every case to go through that and
17 read -- describe every document, no, he didn't.

18 Q Did he open up a drawer which had Clinton
19 personal financial information in it?

20 A I don't recall that.

21 Q Did he pull out a one-page index involving
22 that information?

1 A Not that I recall.

2 Q Did he read a file folder saying Whitewater
3 Development Corporation?

4 A I don't remember.

5 Q During this entire process, did the -- did
6 he put the papers that he had reviewed in piles after
7 he had reviewed them?

8 A It seems like I recall that. I'll tell you
9 why it seems like I recall it, because I do remember
10 there was one issue of concern that was raised by the
11 law enforcement officials at the end and that was
12 what would be done with the pile of documents that
13 was Vince's personal document, could his lawyers,
14 Vince's lawyers, which reminds me of another group
15 that was in the room. And by "group," I think there
16 was one individual who represented Vince Foster's
17 family that was in the room for the search. I had
18 forgotten about him.

19 Q That was a lawyer?

20 A Yes.

21 Q Do you remember his name?

22 A No, I don't. I don't.

1 Q Where was that lawyer situated?

2 A I think he was over there with me and the
3 Justice Department people on Bernie's right.

4 Q When you say over with you and the Justice
5 Department people, you were standing behind the desk
6 to Bernie's right?

7 A Yeah, so maybe he was like due west of the
8 desk or whatever direction that is.

9 Q To the side?

10 A To the side, and they were at the corner.

11 Q The Justice Department were on the other
12 side of the desk?

13 A On the other --

14 Q Let's be quite clear on this.

15 A Okay.

16 Q The Department of Justice people were
17 sitting opposite you; correct? They were facing you;
18 correct?

19 MR. CARBERRY: That's not what he's
20 testified.

21 THE WITNESS: We were both kind of --

22 MR. CARBERRY: Why don't you just listen

1 to his question and if it's not accurate, just
2 explain why it's not accurate.

3 BY MR. CHERTOFF:

4 Q Mr. Nussbaum is facing -- sitting behind
5 the desk facing out into the room; correct?

6 A Correct.

7 Q Seated on the other side of the desk are
8 the Justice Department people; correct?

9 A Actually, I think the Park Police were
10 seated right across from Mr. Nussbaum.

11 Q Where were the Justice Department lawyers
12 seated?

13 A They were to his right and in front of him.

14 Q When you say "in front of him," you mean on
15 the other side of the desk?

16 A Well, a desk has four sides.

17 Q Correct.

18 A And four corners. And I remember them
19 being at one corner and him being on one side.

20 Q Was it the corner such that they were
21 seated facing him or such that they were seated next
22 to him looking in the same direction he was?

1 A I guess if I have to choose one or the
2 other, it would be the first one.

3 Q The facing him?

4 A Right, but facing him off to the side.

5 Q Why don't I do this: I'm going to take a
6 piece of paper and we'll mark it as Exhibit CWB 1.
7 I'll give you a pen. Why don't I ask you, as best as
8 you can, to draw your recollection of where everybody
9 was seated.

10 (Witness complied.)

11 I'll just pass that down. And just for
12 convenience, put the door. I guess the door would be
13 located -- just make a notation where the door would
14 have been and just write "door."

15 (Witness complied.)

16 During this -- I want to make sure I'm
17 quite clear on this. So Mr. Nussbaum reviewed each
18 document or at least each file folder by describing
19 its contents and waiting for the assembled people
20 from law enforcement to indicate whether they wanted
21 to look at it; correct?

22 A Correct.

1 Q No one raised any complaints about this
2 procedure?

3 A Not that I recall.

4 Q Did the law enforcement people express an
5 interest in looking at any one of these documents?

6 A I don't recall. It seems like there was
7 some discussion about telephone records, and I don't
8 remember if it was a telephone record itself that
9 prompted that interest or some other document that
10 generated that concern. They did express an interest
11 in seeing his telephone records, but I don't recall
12 any other documents that they were interested in that
13 they expressed an interest in.

14 Q And they seemed perfectly happy with this
15 to you?

16 A Well, that's your characterization, but I
17 don't recall any complaints from them about the
18 procedures involved.

19 Q Did somebody stand up during the course of
20 the document review in the back of the room?

21 A Did somebody stand up?

22 Q Yes. Did an agent stand up?

1 A Oh, I think more people were standing than
2 were seated in that room.

3 Q Was there a point in time when an FBI agent
4 stood up and had one of the associate counsel speak
5 to him about why he stood up?

6 A No.

7 Q Didn't happen?

8 A Not while I was in the room.

9 Q Did Mr. Nussbaum go through any trash?

10 A I don't recall.

11 Q Now, describe the two briefcases that were
12 in Mr. Foster's office.

13 A One was a -- what I consider a classic
14 attorney's briefcase, a briefcase that you fold open
15 at the top and you put file folders in there or legal
16 pads in there and you pull them out. It was old,
17 leather, beat up.

18 Q Dark or light color?

19 A I don't recall.

20 Q What was the second one?

21 A I -- my recollection is the second was more
22 of a catalogue case, but obviously since all the

1 attention has been on the first one, I just -- it's
2 hard for me to remember.

3 Q When you say "a catalogue case," what does
4 it mean?

5 A Well, some people call it a litigator's
6 bag, a squared-off briefcase that holds its form, it
7 doesn't collapse.

8 Q Now, regarding the first briefcase, did you
9 know the first briefcase, the one that opens up from
10 the top, as you say a classic lawyer's briefcase, had
11 you seen Mr. Foster with that before?

12 A You know, I saw the briefcase recently, or
13 I saw what was purported to be the briefcase at the
14 grand jury. It looked familiar. If that was the
15 briefcase, then I had probably seen that before.

16 Q Did Mr. Nussbaum look inside that
17 briefcase?

18 A Yes, he took the documents that were in
19 that briefcase out, put them on the desk and went
20 through them, as I remember, early in the search.

21 Q Now, the briefcase was behind him; correct?

22 A It was either behind him or to the side of

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1 him. I don't recall.

2 Q And he was seated; correct?

3 A He was seated part of the time and standing
4 part of the time.

5 Q When he pulled the briefcase up, was he
6 seated or standing?

7 A I don't recall.

8 Q Did he open the briefcase, open from the
9 top and look in, or did he open it from the side,
10 lying on its side?

11 A I don't recall that he actually pulled it
12 up to the top of the desk. He may have kept it open
13 at the side and took all the files out of it.

14 Q And you saw him take the files out himself?

15 A Right.

16 Q Did he use one hand or two hands?

17 A I don't recall.

18 Q Did you look inside the briefcase?

19 A I remember watching him do that, so the
20 answer would have to be yes. I remember watching him
21 take files out of the briefcase.

22 Q And he indicated when he did so, that the

1 briefcase was empty; right?

2 A I don't think he did it all in one trip
3 down. I don't think he reached down and grabbed the
4 contents of the briefcase and pulled it up. I don't
5 recall that.

6 Q He did several motions?

7 A Correct.

8 Q At the document review was there a point in
9 time where he said the briefcase was empty, in
10 substance?

11 A I don't recall. It became clear that he
12 had gotten all the documents out of the briefcase and
13 I think he moved on to the other briefcase at that
14 point.

15 Q And you saw inside the briefcase; correct?

16 A I remember, as I just described, watching
17 him pull documents out. I had a pretty good
18 viewpoint, and I remember seeing him get all the
19 documents out of that briefcase.

20 Q At the bottom you saw several paper clips
21 and a yellow piece of Post-it paper; is that correct?

22 A I don't recall that specifically as we sit

1 here. I do recall him emptying that document out.
2 And I'll tell you the reason I don't recall it
3 specifically as we sit here. We obviously all know
4 that subsequently a note, a torn-up note was found in
5 the bottom of that briefcase. I believe that's the
6 briefcase that a torn-up note was found in the bottom
7 of. Because I know that that note was in there now,
8 it's hard to believe that I had seen the bottom. But
9 I do remember --

10 Q You're telling us that your memory is now
11 impaired by your subsequent knowledge and your
12 reasoning backward from the fact that the note was
13 later found in the briefcase?

14 A During the search, I saw Bernie take all
15 the documents out of the briefcase. I now know that
16 there was a document at the bottom of the briefcase,
17 a torn-up document at the bottom of the briefcase. I
18 don't know what else to tell you.

19 Q Mr. Burton, I take it what you mean to say
20 is that you know that at a later point in time
21 something was discovered in the briefcase?

22 A That's correct. You're exactly correct.

1 Q But now I'm not asking you what you learned
2 on July 26 or July 27. I'm asking you what you
3 observed on July 22 whatever the implication of that
4 may be from what you later learned. On July 22 when
5 you saw that briefcase after Mr. Nussbaum had
6 completed the process of removing documents, it was
7 empty; correct?

8 A He took all the documents out of the --
9 documents that I could see in the briefcase.

10 Q And what was left that you did see were
11 several paper clips and a single piece of Post-it
12 paper; correct?

13 A That's correct.

14 Q After the interview -- I'm sorry, after the
15 review of the documents was completed, did the agents
16 or did the Department of Justice lawyers have any
17 further conversation with Mr. Nussbaum about how the
18 documents were going to be handled?

19 A After the search was completed, did you
20 say?

21 Q After this review, I should say, not
22 search.

1 A After the search and/or review was
2 completed, I remember there being this dispute
3 somewhat over the personal documents. I remember
4 that the Park Police were all for -- after hearing
5 some debate between Mr. Nussbaum and the Justice
6 Department lawyers, the Park Police made it clear
7 they had no problem with Mr. Foster's family lawyer
8 taking it home and made other comments to that effect
9 at the end, otherwise expressing satisfaction with
10 the way the search was being conducted and
11 appreciation for everybody's involvement in that.

12 Q What about the Department of Justice
13 lawyers? What was their argument with Mr. Nussbaum
14 at this point?

15 A They initially argued that perhaps the
16 documents should not go home with the family's
17 lawyers, but once they learned that the Park Police,
18 who they were representing there, had no problem with
19 that, they quit arguing.

20 Q Now, other than the pile of documents that
21 were personal to Mr. Foster, were there two other
22 piles of documents on the desk?

1 A I don't recall. There were other documents
2 on the desk.

3 Q Were there documents that Mr. Nussbaum
4 indicated would be parceled out to other lawyers
5 because they represented the continuing work of the
6 counsel's office?

7 A I don't recall that discussion.

8 Q Were there documents that Mr. Nussbaum
9 indicated that were personal to the Clintons that
10 would be given to the Clintons or their attorneys?

11 A I don't recall that discussion.

12 Q Did Mr. Margolis say to Mr. Nussbaum at the
13 conclusion of this review process that he wanted the
14 office to remain secured?

15 A No. Not in my presence that wasn't.

16 Q Did you leave before Mr. Margolis left?

17 A I don't believe so.

18 Q So you were there until the Department of
19 Justice people left; correct?

20 A Correct.

21 Q In your presence, Mr. Margolis did not ask
22 to have the office continue to be secured?

1 A No.

2 Q And did Mr. Nussbaum indicate to
3 Mr. Margolis or to the other Justice Department
4 lawyer at the conclusion of this review process that
5 he would no longer keep the office secured?

6 A I don't know that that was stated one way
7 or another by Mr. Nussbaum.

8 Q No discussion ever, at all?

9 A No, there was no discussion of that,
10 correct.

11 Q Now, when the Department of Justice and law
12 enforcement people left, where did you go?

13 A I don't remember if I -- I don't remember.

14 Q Did you go back to Mr. McLarty and tell him
15 what had happened?

16 A I don't recall.

17 Q Did you go to talk to Ms. Williams?

18 A I don't recall.

19 Q Did you stay in the office?

20 A I don't recall.

21 Q Did you remove any documents from the
22 office?

- 1 A I did not.
- 2 Q Did you see anybody review documents from
3 the office?
- 4 A Anybody remove documents from the office?
- 5 Q Yes.
- 6 A No, I did not, other than the family's
7 lawyer.
- 8 Q So the family's lawyer took them on the
9 spot?
- 10 A Actually, I may have left before that, the
11 mechanics of that, whether he was going to take them
12 with him that day or come back the next day and get
13 them, but I remember that discussion was going on.
- 14 Q So the law enforcement people left;
15 correct?
- 16 A Correct.
- 17 Q And then you left after that; correct?
- 18 A That's to the -- to the best of my memory,
19 that's what happened.
- 20 Q And then Mr. Foster's family's lawyer
21 remained after you had left?
- 22 A I don't recall that. I don't recall that

- 1 specifically. They may have. His lawyer may have --
2 his family's lawyer may have stayed behind to discuss
3 the mechanics, the logistics, if you will, of getting
4 those documents to the Foster family.
- 5 Q Did you have any more contact with or
6 discussion about the documents in Mr. Foster's office
7 for the rest of that day?
- 8 A I don't recall.
- 9 Q Did you go to the funeral on the 23rd?
- 10 A Yes.
- 11 Q So you left in the morning?
- 12 A I don't recall.
- 13 Q Did you have occasion to be in the
14 residence on the 22nd?
- 15 A I don't recall.
- 16 Q Have you often been in the residence?
- 17 A Yes.
- 18 Q Did you have occasion to be in the
19 residence with a box of documents on the 22nd?
- 20 A Certainly not that I recall, and it seems
21 like that would be something I would recall.
- 22 Q Did anybody tell you that they needed help

1 in making arrangements to move a box of Mr. Foster's
2 documents or the documents in Mr. Foster's office
3 into the residence that afternoon?

4 A No.

5 Q Did Ms. Williams raise that to you?

6 A No one did.

7 Q Now, you came back from the funeral on
8 Sunday or Monday?

9 A I think I came back with the President's
10 party, so whichever day that was. I'm sorry. I know
11 I was in the office on Monday.

12 Q And did you have occasion to be in the
13 counsel's suite on Monday morning, the 26th of July?

14 A I don't recall.

15 Q Did there come a time when you got a
16 telephone call to go up to the counsel's suite later
17 that day on the 26th?

18 A I don't recall if I got a telephone call to
19 do that.

20 Q Well, did you find yourself in
21 Mr. Nussbaum's office on the 26th later in the day?

22 A Yes, I did.

1 Q Do you know how you came to be there?

2 A Yes, Mr. Foster -- Mr. Nussbaum came down
3 to the chief of staff's office. I believe he asked
4 for Mr. McLarty, who was in Chicago that day, and
5 when he wasn't in, he talked to me about the fact
6 that Mr. Neuwirth had found a writing by Mr. Foster.

7 Q And what did -- what did you do?

8 A I accompanied Mr. Nussbaum to his office,
9 where Mr. Neuwirth was piecing together the writing.

10 Q Were you surprised to hear that a writing
11 had been found?

12 A Yes.

13 Q Did Mr. Nussbaum tell you on your way up to
14 the office how the writing had come to be found?

15 A Yes.

16 Q What did he tell you?

17 A He said Mr. Neuwirth found it when he was
18 packing up Mr. Foster's briefcases.

19 Q And did he give any more detail than that?

20 A I don't recall him giving any more detail.
21 After I got to the office Mr. Neuwirth gave a little
22 more detail.

1 Q What did Mr. Neuwirth tell you?

2 A He said he was packing up materials --
3 packing up materials to go to the Fosters, maybe it
4 was personal effects, I think the empty briefcase at
5 that time would have been classified as a personal
6 effect. And he was -- the box wouldn't quite close,
7 it seems like I recall him saying, and so he took the
8 briefcase out. And I don't remember if he, you know,
9 tried to smash it together or whatnot, but for some
10 circumstance, the briefcase got turned upside down
11 and part of the note fell out of the briefcase. He
12 looked in the bottom of the briefcase and found the
13 rest of the writing, note -- writing, during that
14 process.

15 Q Now, was anybody else present during this
16 period of time besides Mr. Neuwirth, Mr. Nussbaum and
17 yourself?

18 A No.

19 Q None of the secretaries?

20 A No. We were in Mr. Nussbaum's office and
21 if I remember right, the door was closed.

22 Q And were the secretaries outside, if you

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1 remember?

2 A That is probably the case.

3 Q So what was your response to Mr. Neuwirth
4 when he had given you this explanation concerning the
5 finding of the note?

6 A It was that we should call Mr. McLarty and
7 let him know.

8 Q Did you wait until he pieced the note
9 together?

10 A Well, he was about completed with that
11 process when I got there.

12 Q Did you read the note?

13 A Yes.

14 Q Did you consider it a suicide note?

15 A I don't know if I'm qualified to say that
16 or not.

17 Q Did you have an opinion?

18 A I always made an effort to call it a
19 writing, because I just -- the concept of a torn-up,
20 destroyed suicide note doesn't -- didn't make any
21 sense to me.

22 Q Did you notice whether there were any

1 pieces missing from the note?

2 A I was surprised when I later read
3 Mr. Safire said that there was a piece missing. I
4 didn't recall a piece being missing.

5 Q Did you call Mr. McLarty?

6 A Yes, we called him from Mr. Nussbaum's
7 office.

8 Q And what was the conversation with Mr. --
9 were you on the phone or was Mr. Nussbaum on the
10 phone?

11 A I think -- it may have been me on the phone
12 and then Mr. Nussbaum on the phone or we may have put
13 him on the speaker, but we talked with Mr. McLarty
14 about the fact that this writing had been found in
15 Vince's office.

16 Q What did Mr. McLarty say?

17 A He -- I think we -- or Bernie perhaps
18 explained to him that there was some work that was
19 going to be done right away on determining what, if
20 any, privileges attached to that note, to that
21 writing, for purposes of turning it over to the Park
22 Police as part of their investigation.

1 Q What privileges were being considered as
2 being applicable perhaps to this writing?

3 A I think there were some attorney-client
4 privilege issues, possibly some executive privilege
5 issues, possibly some privileges involving the Foster
6 family. There was also the issue of notifying the
7 Foster family. That was another issue that was
8 involved prior to it being turned over, so those were
9 some of the issues we talked about.

10 Q This was approximately 6:00 in the evening?

11 A I don't recall what time it was.

12 Q So it was left with Mr. McLarty that there
13 would be some research done on the privilege issues
14 and the family would be notified?

15 A That's right, that an attempt would be made
16 to contact the family.

17 Q So what was done to carry out these tasks?

18 A I think an attempt -- I think Bernie was
19 going to contact Jim Hamilton, who was Mr. Foster's
20 family's attorney, was not the lawyer in the room for
21 the search but he was -- that was another lawyer
22 associated with Mr. Hamilton.

1 I think Bernie was going to contact
2 Mr. Hamilton and Mr. Neuwirth was going to do the
3 research.

4 Q Did Mr. Neuwirth do the research that
5 night?

6 A I don't know. I assume he did.

7 Q Did anyone raise the question about when
8 the Department of Justice should be notified about
9 the note?

10 A I don't remember. I think that -- that
11 came up, that issue came up, but it may have been the
12 next day. It came up after it was determined that
13 the Department of Justice as lawyer for the Park
14 Police should be notified of the note. I just don't
15 remember at what point that was -- those decisions
16 were made. They weren't my decisions to make.

17 Q What happened next with respect to the
18 note?

19 A Mr. McLarty called back at some point.

20 Q That evening?

21 A While -- in that general time frame. And
22 he explained that he had talked to David Gergen about

1 the note. That's the only fact I remember from that
2 second conversation.

3 Q What was Mr. Gergen's job in the White
4 House at that point in time?

5 A He was counselor to the President.

6 Q When you say "counselor," that's not a
7 legal position; is that correct?

8 A That's correct, it's not a legal position.

9 Q Do you know if he's a lawyer?

10 A No, I guess I don't know. I may have -- if
11 he is, I may have known that, but I just don't
12 recall.

13 Q But he certainly wasn't functioning within
14 the White House as a lawyer?

15 A Oh, no, no.

16 Q What was Mr. Gergen's input into this note?

17 A I don't recall.

18 Q That evening did anybody make an effort to
19 contact the Department of Justice or Park Police
20 about the note?

21 A I don't believe so.

22 Q Was there any discussion about doing that?

1 A Not that evening -- the family hadn't been
2 contacted and the -- I think Lisa was going to be in
3 transit. I just don't remember. It seems like
4 Mr. Hamilton was notified, but the family hadn't been
5 told yet. There was a fear that if the note -- if
6 the family found out about the note from news
7 reports, that that would not be an appropriate thing,
8 just from a human decency perspective.

9 Q Did anybody think to notify the Department
10 of Justice that there had been a writing that was
11 found?

12 A Did anybody think to do that?

13 Q Yes.

14 A I don't understand your question.

15 Q Did anybody express the view that evening
16 that the Department of Justice should be notified
17 that a writing had been found?

18 A I don't recall hearing that that evening.
19 It was a very small circle of people that were aware
20 of it.

21 Q Did you think of doing that?

22 A No. Not until a determination was made

1 that it needed to be turned over or that, you know,
2 it was somehow relevant.

3 Q Well, what was the determination that you
4 anticipated being made whether privilege would be
5 asserted or whether it needed to be turned over?

6 A I think privilege primarily. I think
7 privilege primarily.

8 Q Well, was it your understanding that if a
9 decision was made that it was privileged, that you
10 would never notify the Department of Justice that a
11 note had been found?

12 A First of all, again, I'm not sure -- when
13 we say "note," I'll agree to mean writing note.

14 Q Piece of paper, writing.

15 A All right. I don't think it was ever
16 considered at any point not to turn the writing over
17 to the Park Police through the Justice Department. I
18 just don't know at what point the decision was made
19 to do it and how to do it.

20 Q Well, the very week before, you had been
21 present in the room when Mr. Nussbaum removed
22 documents and looked in the briefcase and opened

1 drawers to remove things that might be considered
2 relevant to the Park Police and the Department of
3 Justice; correct?

4 A Uh-huh.

5 Q You understood they would have an interest
6 if a writing was found within that office, within
7 less than a week after they had been present for this
8 procedure being performed; correct?

9 A Sure.

10 Q And it did not seem to you that evening
11 that someone ought to at least notify the Department
12 of Justice that a note had been found, even if the
13 transmission of the note would await some further
14 research?

15 A Well, I think again along with the
16 privilege issue and therefore how to do it, there was
17 the issue of whether you should let the family know
18 first. And I think until there was some confirmation
19 that Lisa knew that this writing was found and what
20 it said, that they just didn't want to run the risk
21 of her hearing about that over the air.

22 Q So there was -- well, let me back up. You

1 understood by this point that the deputy Attorney
2 General, Mr. Heymann, had taken personal charge of
3 the investigation; correct?

4 A I'm not sure if I was aware of that that
5 evening or the next morning. Did I become aware of
6 it the next morning? I knew I was aware of it the
7 next morning.

8 Q Was there a question in your mind, for
9 example, that if the Attorney General herself had
10 been notified, that she was going to leak it to the
11 press?

12 A On the evening of the 26th. Was there a
13 question in my mind?

14 Q Yes, that there would be a breach of
15 security or breach of etiquette if the Attorney
16 General had been notified about something being
17 found?

18 A All I can tell you is that there was a
19 concern about the family finding out about it over
20 the air. I don't know that -- I don't think there
21 anybody was thinking that Attorney General Reno would
22 pick up the telephone and call The Washington Post

1 and leak this to them.

2 Q Did anyone make an effort that evening to
3 find where Mrs. Foster was?

4 A I think an effort was made -- I think
5 Bernie was going to make an effort to notify Jim
6 Hamilton. I don't know when that effort was made. I
7 don't know whether it was made that evening or the
8 next day, and let Jim Hamilton notify Ms. Foster. I
9 do remember that there was some delay involved in
10 getting the family notified because of some traveling
11 that Ms. Foster was doing, either going from Little
12 Rock to Washington or Washington to Little Rock.

13 Q Was the decision that the family had to be
14 notified before the Department of Justice was
15 notified or that the family had to have an
16 opportunity to read the document before the
17 Department of Justice was notified?

18 A I don't recall.

19 Q Well, let's go to the following morning.
20 On the following morning, had Mr. Neuwirth completed
21 his research?

22 A I don't recall.

1 Q What happened the following morning with
2 respect to the note?

3 A I think the next morning was when it was --
4 may have been when they were trying to get word to
5 Lisa that the note was found. Again, I just don't
6 remember her travel schedule, but at the conclusion
7 of her travel it was found and in fact I think she
8 came to the White House to look at it.

9 Q She came at approximately 5:00 in the
10 evening; correct?

11 A Okay, okay, yeah, so she must have been
12 traveling on Tuesday. She must have been traveling
13 on Tuesday.

14 Q Well, where was she Monday night?

15 A I don't know. I'm thinking Little Rock
16 because she had traveled from Little Rock where the
17 funeral was held to Washington.

18 Q Was there a meeting on Tuesday morning with
19 Mr. Gergen and yourself and Mr. McLarty and other
20 people?

21 A Yes.

22 Q And what was -- was there discussion about

1 the note during that meeting?

2 A Yes.

3 Q What was the discussion?

4 A The discussion was how the -- the
5 procedures by which it would be followed to release
6 the context of the note, to release the text of the
7 note in connection with it being turned over to the
8 law enforcement officials.

9 Q Now, at this point in time, the law
10 enforcement officials had still not been notified
11 that anything had been found; correct?

12 A You know, I'm starting to confuse my days.

13 Q Tuesday the 27th, the day after the note
14 was found, in the morning.

15 A The day after the note is found. All
16 right. The meeting I was thinking about on how to
17 handle the press was, I guess, a Wednesday and I
18 apologize.

19 Q Let's get back to the Tuesday. Was there a
20 meeting that Tuesday concerning the note with
21 Mr. Nussbaum, yourself and Mr. McLarty and
22 Mr. Gergen?

1 A Well, that was the circle that knew it so
2 if there was a meeting, that would make sense, that
3 they would be the attendees. I don't recall that
4 meeting.

5 Q What was -- you don't remember anything
6 about the discussion?

7 A I don't recall that there was a meeting.

8 Q Did you take -- well, let me show you --
9 let me ask you first, do you remember whether
10 Mr. Hamilton ultimately came and joined the meeting?

11 A I'll tell you, there were issues
12 surrounding letting -- you know, Lisa finding out
13 about it, and also issues surrounding on how it ought
14 to be turned over to the Park Police, and also issues
15 surrounding the release of the note. I mean, the
16 public release, what kind of news release should come
17 forth.

18 Some of those occurred after it was turned
19 over to the Park Police, which was the day after it
20 was found. And some of them occurred that day and
21 I'm just a little confused as to which ones occurred
22 on which days.

1 Q Let me --

2 A I also want to correct one other thing I
3 testified to earlier. I said I became aware the next
4 morning after the note was found that Mr. Heymann was
5 personally in charge. I know I was aware of that the
6 next morning, the morning after the note was turned
7 over to the Park Police.

8 Q On the Wednesday?

9 A Right. I don't know that I knew that on
10 Tuesday.

11 Q Let me show you Exhibits Z514 and 515 and
12 ask you whether these pieces of paper are your
13 handwriting.

14 A Yes, that's my handwriting.

15 Q Do you know what these notes or jottings
16 pertain to?

17 A It looks like it concerns the Foster death
18 and aftermath. Certainly the first page relates to
19 that. And the second page relates to the same thing,
20 specifically the second page relates to what kind of
21 news release might be done along with turning over
22 the note, or maybe after the note was turned over.

1 Q 515, the second page, does that relate to
2 the meeting that took place on Wednesday the 28th
3 about the press release?

4 A It may. It may relate to that. I don't
5 know.

6 Q The first note, which is number 514, has a
7 list of people. Are those people who attended the
8 meeting on Tuesday?

9 A I don't recall if there was a meeting on
10 Tuesday.

11 Q So this doesn't ring a bell about a Tuesday
12 meeting?

13 A No.

14 Q You don't know when these were prepared?

15 A No. If I could see them in context, that
16 might help.

17 Q Unfortunately this is all the White House
18 has furnished us with. Is there something more that
19 should be there? Are there portions of this that
20 have been blocked out?

21 A Don't they use "redacted" when they redact
22 things?

1 Q Well, they should so I'm asking, is there
2 something that looks like it's missing to you?

3 A No.

4 Q Ignore the black. Those are exhibit tags.

5 A I tend to put my notes in a notebook,
6 that's all. Without seeing the notebook and the
7 dates and whatnot, I don't date individual notes or
8 individual pages.

9 Q So you can't tell what this relates to?

10 A That's correct, other than what I've
11 already testified to.

12 Q Do you remember there was a discussion
13 where someone said they would be far happier if the
14 discovery of someone other than Bernie and if worried
15 about usher's office, discuss with me, do those ring
16 a bell?

17 A No, they don't. That's your
18 characterization of my notes and like "discovery,"
19 I'm just not sure what that word is.

20 Q Why don't you read -- and there's some
21 abbreviations. Why don't you read 514 to us so
22 there's no question about anybody's

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1 characterization.

2 A Looks like John Sloan, Wilson Jones.

3 Q Who are those people?

4 A I don't know who John Sloan is. Wilson
5 Jones is somebody who lives in Little Rock. I just
6 don't know him. "Executor, Jim Hamilton, Bernie
7 Nussbaum, Bill Burton, David Gergen, Mack McLarty.
8 Precedent, two points, far happier if disc," d-i-s-c,
9 "if someone other than Bernie," arrow, "if worried
10 about usher's office, discuss with me."

11 Q What do you think d-i-s-c abbreviated means
12 in the context of this discussion?

13 A I'm not sure. Discussion, discovery. I
14 can't tell what it means.

15 Q Do you remember a point in time on Tuesday
16 where Mr. Hamilton -- this is the 27th -- where
17 Mr. Hamilton came to the White House?

18 A As we've discussed this, and I've sorted
19 out the days a little bit, it seems like Mrs. Foster
20 came up to the White House that day to look at the
21 note. It seems like I recall that Mr. Hamilton was
22 with her.

1 Q Did Mr. Hamilton come earlier during the
2 day?

3 A I don't recall.

4 Q Do you know when the decision was finally
5 made to notify the Attorney General of the United
6 States that this writing had been found?

7 A Oh, I -- that decision was made, if not the
8 night the note was found, then early the next day.
9 It was a matter of when and the procedure is, when
10 you say notify the Attorney General, notify the Park
11 Police through the Justice Department.

12 Q Any law enforcement authority?

13 A Right.

14 Q When was the decision made that a law
15 enforcement person would be notified that a writing
16 had been found?

17 A It was either made the night the note was
18 found or early the next morning.

19 Q Who made it?

20 A I don't recall. I don't know that you
21 could point any one person who made that decision.

22 Q What was the reason for the delay in making

1 the notification?

2 A Other than what I've testified to or you
3 want me to repeat that?

4 Q I would like you to answer the question.

5 A Okay. Notification of the family, looking
6 into the privilege issues. And then there was a
7 decision made at some point -- and I think
8 Mr. McLarty made this decision -- to turn the note
9 over to the Justice Department rather than to the
10 Park Police directly, since our contacts had been
11 with the Justice Department. Mr. McLarty had a
12 meeting set up at some point that afternoon with
13 Attorney General, so the attorney was made to turn it
14 over at that meeting.

15 Q That was sometime in the evening around
16 6:00 or 7:00 in the evening?

17 A I don't recall at what time it was. It
18 seems like it was around 6:00. It was right after
19 the normal business day.

20 Q Would you agree with me that until the
21 Attorney General came to the White House and was told
22 about the note, nobody in law enforcement had been

1 notified about the discovery of this writing?

2 A Nobody formally had been notified through
3 any kind of proper channels. Whether it had been
4 leaked, I don't know.

5 Q Do you have reason to believe it was
6 leaked?

7 A No.

8 Q Do you have reason to believe someone made
9 an informal notification?

10 A No.

11 Q So to your knowledge, the first
12 notification to any law enforcement authority that a
13 writing had been discovered, let alone what it was,
14 occurred when the Attorney General was asked to come
15 over to the White House in the evening of Tuesday the
16 27th of July; correct?

17 A Not exactly. I think there was a meeting
18 already scheduled between the Attorney General and
19 the chief of staff that evening, and since it made --
20 the procedure ultimately was to protect, as much as
21 possible, this note not being leaked out, it made
22 sense to give it to the Attorney General at that

1 meeting.

2 Q But that meeting was the first time
3 somebody in law enforcement received any notification
4 that a writing had been discovered the previous day;
5 correct?

6 A To the best of my knowledge, that's
7 correct.

8 Q Do you know an individual by the name of
9 Tom Collier?

10 A Yes, I do.

11 Q And in July of 1993, was he the chief of
12 staff to the Secretary of the Interior?

13 A That's correct.

14 Q And as such, he had within his jurisdiction
15 the Park Police; correct?

16 A Within the Secretary of Interior's
17 jurisdiction was the Park Police; correct.

18 Q Did he have a conversation with you on
19 Wednesday, July 28 concerning Park Police complaints
20 about access to information?

21 A I had a conversation with Mr. Collier at
22 some point after there were some negative press

1 reports about the Park Police investigation.

2 Q Did he complain to you or did he tell you
3 that the Park Police had complained about not being
4 given access to the documents?

5 A Yes, he did.

6 Q Did he tell you that the Park Police wanted
7 to have access to the documents?

8 A I think that was a topic of discussion in
9 that telephone conversation.

10 Q Did you tell him no?

11 A I did discuss with him the fact that I sat
12 in on the search personally and that the Park Police
13 was -- were quite content with the way the search was
14 conducted and, in fact, made comments about this goes
15 beyond what they were looking for.

16 Q I want to make sure we're very clear on
17 this. In your conversation with Mr. Collier where he
18 raised these complaints on the part of the Park
19 Police, you told him that you had sat in on the
20 document review the previous week; correct?

21 A Correct.

22 Q You told Mr. Collier that the Park Police

1 had been satisfied with that review; correct?

2 A I did tell him that.

3 Q You told Mr. Collier that the Park Police,
4 in fact, said that the review went beyond what they
5 wanted; correct?

6 A That's correct.

7 Q And all those things were, in fact, true,
8 all those things happened?

9 A All those things were, in fact, true.

10 Q And what did Mr. Collier say in response to
11 that?

12 A Mr. Collier, at that -- at some point in
13 that conversation, resorted to questioning the
14 propriety of having Mr. McLarty involved in this
15 issue since he had known Mr. Foster personally prior
16 to going to work with him in the White House. And I
17 made a response to that of something like, Tom, we
18 all knew Vince, we all worked together. I knew him
19 for some time in Arkansas. And he said, "well, you
20 shouldn't be involved either," and, in fact, got
21 quite heated about his claims in this regard, clearly
22 embarrassed about the negative publicity his agency

1 had received, at which point I turned him over to
2 Mr. Neel, the deputy chief of staff, who had a
3 conversation with him. I think during that telephone
4 call.

5 Q Did you say -- what was Mr. Collier's
6 specific response, though, to your telling him that
7 the Park Police were happy with the way things went
8 on July 22?

9 A It seems like he said something to the
10 effect of that's not what they tell me.

11 Q Did you tell Mr. Collier that if there was
12 a screw-up in the investigation, it was done by the
13 Park Police?

14 A I don't recall. I may have.

15 Q On the 28th of July, did you come to learn
16 that the Department of Justice was also unhappy with
17 the way access had been provided on the 22nd of July?

18 A You're going to have to put some days with
19 those dates.

20 Q On the Wednesday July 28, same day as the
21 Collier call, that was the day you first learned
22 Mr. Heymann was personally involved in supervising

1 this matter; correct?

2 A I knew that day Mr. Heymann was involved.
3 I don't recall if I knew before then, but I
4 specifically knew that day because he and I had a
5 conversation.

6 Q What was the conversation you had with
7 Mr. Heymann?

8 A It was about whether the Justice Department
9 wanted the note released, the text of the note
10 released by the White House or not.

11 Q And what did Mr. Heymann say?

12 A My recollection is he said "we want to make
13 that decision as to whether to release it or not."

14 Q And what did you say?

15 A I don't recall. Okay, probably.

16 Q Why did Mr. Heymann speak to you about it?

17 A He may have been calling for the chief of
18 staff and I took the call when Mr. McLarty was out of
19 the office. That often happens. To be honest, I'd
20 be guessing if I -- to answer why he was talking to
21 me.

22 Q Was there a conference call with

1 Mr. Heymann on that Wednesday or the next day, the
2 Thursday?

3 A Yes, there was.

4 Q Who was present on the conference call?

5 A Myself, Mr. Gergen -- actually, it was a
6 large gathering -- Mr. Lindsey, Mr. McLarty was in
7 and out of the room.

8 Q Mr. Heymann was the one who requested the
9 call; right?

10 A That's not the call I remember.

11 Q Well, what's the call you remember?

12 A We were discussing how the release of the
13 note should be handled, whether we should issue a
14 press release with the context of the note or what.
15 There were various positions being taken by different
16 people. I don't recall what they were. At one
17 point, there was a disagreement between a couple of
18 people as to whether the White House could release it
19 or not, whether the Justice Department had said you
20 could or said you couldn't. Mr. Heymann was called
21 on the speakerphone during that meeting to get a
22 response, and he said we want to make that decision,

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1 we, Justice, want to make the decision.

2 Q During this call or any call that week, the
3 week after Mr. Foster passed away, did you either
4 have a conversation with Mr. Heymann or witness or
5 hear a conversation with Mr. Heymann in which he
6 indicated the Department of Justice was displeased
7 with the way the access to the Foster documents had
8 been handled?

9 A I don't recall specifically. I recall
10 generally that after a negative news story came out
11 that week, that we heard from both the Justice
12 Department and the Interior Department with
13 complaints about the search for the first time.

14 Q And did you react to that?

15 A I reacted to Mr. Collier as I testified
16 earlier. I was probably somewhat more deferable to
17 Mr. Heymann.

18 Q What did you tell Mr. Heymann?

19 A I don't recall, but I remember I didn't try
20 to argue with him. I let others deal with
21 Mr. Heymann.

22 Q Were the complaints also that interviews

1 were conducted with the presence of members of the
2 White House counsel's office who were themselves
3 potential witnesses? Was that also raised as a
4 complaint?

5 A I don't understand your question.

6 Q Was another complaint that was raised by
7 the Department of Justice that during interviews of
8 White House personnel by law enforcement authorities,
9 members of the White House counsel's office had sat
10 in on the interviews as lawyers, even though they
11 might be potential witnesses themselves?

12 A I never heard that. I never heard that,
13 and that's certainly contrary to my personal
14 experience when I was interviewed by law enforcement
15 officers.

16 Q When you were interviewed by law
17 enforcements officers in this matter, you mean you
18 had a contrary experience?

19 A I don't remember the White House lawyers
20 sitting in on that.

21 Q Do you know whether they sat in on
22 interviews that occurred on July 22?

1 A No, I don't know.

2 Q Your recollection of the review procedure
3 on July 22 is that the Park Police were more than
4 happy with the way it was done; correct?

5 A That's correct.

6 Q That the Department of Justice was at least
7 satisfied with the way it was done; correct?

8 A Yes.

9 Q The Department of Justice lawyers did not
10 complain about it?

11 A As I think I testified, the Department of
12 Justice lawyers were -- I gave an example, on the
13 turning-over -- let the family's lawyer take the
14 documents home with him. They tried to be quite
15 aggressive. Let's wait and not do that.

16 The Park Police, as they had done on
17 another occasion or two through the afternoon that I
18 witnessed, although I can't remember the specifics,
19 but it was a general tone, the Park Police said we're
20 okay with this. It's okay. We're simply trying to
21 find out if he committed suicide or not, and that is
22 or isn't relevant, and basically called him off,

1 called him down. And Justice Department, as they had
2 done throughout the afternoon, said well, we're here
3 as their lawyers. They're the clients. They're the
4 ones you need to satisfy.

5 Q Other than the issue with turning the
6 Foster private materials over to Mr. -- Mrs. Foster's
7 lawyer after the review had been completed, is there
8 any other occasion when the Department of Justice
9 lawyers raised the complaint about the process and
10 procedure that was being followed?

11 A No, nothing that I recall specifically. It
12 seems like this kind of -- that kind of situation
13 occurred. And it might be simply Bernie describing a
14 document. And I remember on at least occasion,
15 particularly early, he might show the cover of the
16 folder to the Park Police. And the Justice
17 Department might express somewhat of an interest, but
18 once the Park Police said we're not interested in
19 that, then the Justice Department shut down on that
20 issue and Bernie would go to the next document.

21 Q So that now -- because we want to make sure
22 we have all this out here. So then you've testified

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1 about an instance at the conclusion of the review
2 where the question was raised about how the Foster
3 personal materials would be handled and you've now
4 testified about an occasion or two where a folder was
5 shown to the Park Police and the Department of
6 Justice expressed an interest, but the Park Police
7 said no, we don't want it and that was it?

8 A I used that more anecdotally, particularly
9 that first one or two. I don't remember the
10 specifics of the incident. I remember that being the
11 general tenor of the way.

12 The Justice Department lawyers were being
13 lawyers. They were trying to vigorously defend --
14 represent their client's interest.

15 Q And the Department of Justice lawyers did
16 not complain about the overall procedure having
17 Bernie Nussbaum be the one who was doing the
18 reviewing?

19 A Again, I don't recall that specifically at
20 all. And part of the reason -- what I do recall was
21 the Park Police particularly being content, making
22 comments generally to the effect of, you know, we --

1 this is more than we even want. And once the Justice
2 Department realized that, being comfortable with it.

3 Q Let me show you what have been marked as
4 Exhibits 1143, Z1143 to -- well, 1151, but before I
5 do, let me ask you, was there any discussion during
6 the week after the -- Mr. Foster's death about an
7 independent prosecutor being appointed in this?

8 A There may have been. I don't recall right
9 now.

10 Q Was there a concern about that?

11 A If there was, I don't recall it as we sit
12 here today.

13 Q Do you remember who would have raised it?

14 A No, I really don't recall it.

15 Q Let me show you 1143 and ask you if you
16 would read that -- tell us first if it's in your
17 handwriting and then if you would read that.

18 A Yeah, it's in my handwriting.

19 Q Can you read it into the record?

20 A Sure. "Bernie," P-s-y-c-h-i might be
21 psychiatry or psychiatrist, it's an abbreviation,
22 question mark. "Note," and that's underlined. And

1 then there's a word I can't make out, "accounted
2 question mark." No, you're welcome to come around
3 here. "Files to Neuwirth." Then the next line is
4 "Mack, okay with Roy knowing, question mark." Then
5 there is parens, "usher's."

6 The next one looks like maybe that's
7 "Benson-Mack health care, Maggie." Then there's a
8 line with a circle in the middle. And it says "Ann
9 Dowd" and a telephone number and that looks like
10 "Clinton in E."

11 Q Who is "Ann Dowd"?

12 A A reporter for Fortune Magazine.

13 Q Do you recall what the discussion was? Is
14 this notes of a meeting or notes of a to-do list?

15 A I think it's scratch pad notes from
16 telephone calls from my writing things down while I'm
17 on the phone, from possibly -- possibly from sitting
18 in on a meeting. I always carried that pad with me
19 and just scribbled down things, partly to be
20 doodling, partly to remind myself.

21 Q Now, "files to Neuwirth," did that refer to
22 files from the Foster office?

1 A I don't know the date of this, and that
2 would help a lot. This does not refresh my
3 recollection, "files to Neuwirth" did not refresh my
4 recollection on anything.

5 Q Let me show you Z1144. Let's keep
6 reading. That's the next page on what appears to be
7 a Xerox of a spiral notebook.

8 A Okay. "Hamilton, Lisa release statement."
9 Three sentences. "He took his life," Arabic 1,
10 "extreme pressure of job. 2, confirm --
11 confirmation maybe -- "pressures." I can't make out
12 that word. "Was the" and I can't make out that word,
13 "long before life was taken."

14 Q Now, does this refer to the drafting of a
15 press release the week of the 26th of July regarding
16 the release of a note or does it relate to something
17 earlier involving the death?

18 A It sounds -- it sounds like it relates
19 after the writing was found, so it would have been
20 the next week after Neuwirth found the note.

21 Q Keep going.

22 A That looks like "Hines/manager-gen 1," but

1 we've been talking about Major Hines. Maybe it's
2 "Hines, Major," and then g-e-n, 1. "Policy to
3 release such notice."

4 Q Could it be "notes"?

5 A Note. "Strong feeling" is in quotes.
6 "10-1 -- 10-1, arrow, 6 days from now, notes public,
7 additional delay created. Only thing we want."

8 Q Now, does that relate to a meeting or
9 discussion concerning the timing of the release of
10 the note?

11 A No, this gives me a general recollection
12 that perhaps after finding the note, at some point we
13 called the Park -- we were trying to ascertain
14 Wednesday morning -- you may remember I mentioned
15 that we met Wednesday morning to discuss who should
16 release the note and whatnot. To prepare for that
17 meeting, it seems like I perhaps made some calls,
18 including one to Major Hines, including one to the
19 Park Police, to determine what their policy is on
20 releasing notes such as this.

21 Q Now, then, next page is 1145.

22 A "Why to take so long to find it, question

1 mark. Bit about Kaki, question mark. Independent,"
2 that's abbreviated, "prosecutor."

3 Q What does that refer to?

4 A I have no idea. Okay. It has something to
5 do with the note. "Why take so long to find it."
6 That's been one of the issues. How come it took a
7 week after the death to find it? The bit about Kaki
8 is probably a reference in the note to something Kaki
9 Hockersmith, the redecorator, was doing. Independent
10 prosecutor, again, I don't know. If it's a
11 discussion about an independent prosecutor that was
12 already appointed or one that might be appointed.

13 Q Do you remember -- do you remember what the
14 discussion was about a special prosecutor who might
15 be appointed?

16 A I don't know if these are personal notes
17 or -- in other words, my thinking or a telephone
18 conversation or jottings during a meeting. I just
19 don't remember.

20 Q Let's go to 1146.

21 A "Major Hines, Captain Charles Hume,
22 Lieutenant Kass." I can't make out that word.

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1 "Confirm and exist. 'Someone who is depressed.'
2 Thursday, Friday. It's on -- it's our normal
3 procedure. Phil, he's still worried about leak,"
4 something "demand, having to rely."

5 Q Mean anything to you? Do you know who Phil
6 was?

7 A We've been talking about Phil Heymann.
8 There was also a Phil later. I don't know if he had
9 joined the White House at that point or not. Oh, he
10 was at OMB, I think, but I don't remember his
11 involvement in this.

12 Q Next, 1147.

13 A "Existence plus characterization. George.
14 We turn over" something. "No further comment." And
15 then there's a second thing down here, "we release
16 after."

17 Again, that could be George or Gergen. "We
18 or Justice release a copy. We're instantly problem"
19 or something. "Once admit existence, it's a very big
20 deal. Neil, let's say it creates voyeuristic. White
21 House not" and I can't make out that word, waiting or
22 wanting "or part of inquiry if ongoing."

1 Q Was that part of a meeting?

2 A That sounds like those could be notes from
3 that meeting I was just talking about after the note
4 had been turned over.

5 Q This would be Wednesday the 29th; correct?

6 A That's right. Found the note Monday night,
7 turned it over Tuesday afternoon --

8 Q Well, Tuesday evening; correct?

9 A Right. And then Wednesday morning
10 discussing how we're going to handle the press. It
11 was that meeting in Mr. McLarty's office.

12 Q Going on to the next page, 1148, Z1148,
13 what is that?

14 A "Facing credibility problem as full release
15 is possible. Jim Hamilton, arrow, HRC" and a letter
16 N. And then "WH," White House, "not."

17 Q What does that refer to?

18 A I have no idea.

19 Q HRC is Mrs. Clinton; correct?

20 A That's correct. Those are her initials.

21 Q Was this discussed in this meeting, too,
22 the Wednesday meeting on the 29th?

1 A I do not remember Mrs. Clinton being
2 discussed in that meeting, and I certainly remember
3 she was not at the meeting.

4 Q Let me show you Z1149. Is that a record of
5 a call from Jill Dogherty from CNN?

6 A Yes. That's what it looks like.

7 Q Read this to us.

8 A "Jill Dogherty, not so" and I can't make
9 out the next word. "4:00 p.m. to 7:00 p.m. 27
10 hours."

11 Q Is that a reference to the delay between
12 the time the note was discovered and the time the
13 Attorney General was notified?

14 A I don't remember the times on that, but if
15 those were -- if it was found at 4:00 p.m. and it was
16 turned over at 7:00 p.m. the next day, that would be
17 27-hour delay. "Discussion 4:00 p.m. Monday, not
18 midday." She underlines "not midday."

19 Q Is that she or you?

20 A Oh, I underline. Not -- I'm sorry, this is
21 my handwriting.

22 Q Was that your response to her?

1 A Could be. As I mentioned, my notes
2 sometimes are their comments, sometimes my comments,
3 sometimes just my thoughts, separate and apart from
4 the conversation.

5 Number 2, "McLarty ordered office sealed"
6 and there's a question mark. Number 3, "a few
7 pieces," and that's in single quotes, "of legal
8 paper, a single sheet of legal paper torn into bits.
9 Four -- weekend before death, here on Sunday."
10 That's underlined twice.

11 Q Let me show you 1150.

12 A "Dictating equipment, arrow, no tape in
13 machine." And there's a redacted section.

14 Q Do you know what that refers to, the
15 dictating equipment?

16 A No. Somebody may have asked a question as
17 to whether his Dictaphone had a tape in it, whether
18 Mr. Foster's Dictaphone had a tape in it, but I don't
19 recall that conversation.

20 Q On July 22 when you were in Mr. Foster's
21 office during the review that took place in the
22 presence of the various law enforcement personnel,

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1 did someone make a request to have the computer
2 turned on?

3 A Not to my recollection.

4 Q Finally let me show you 1151 and ask you
5 what that is.

6 A Again, it's dated at the top 7 August and
7 then there's a redacted section and then near the
8 bottom, it looks like it says "Skip, another
9 department/Park Police, report Monday, check mark,
10 suicide, a check mark, no problem with delay." Then
11 the next line says "head of office of OPI" and then
12 it's checked, it says "FBI lawyer" and a check that
13 says "GOP coverup references."

14 Q Is there a date? That's August 7; right?

15 A It says 7 August at the top and then there
16 is a redacted section and then there's these notes at
17 the bottom.

18 Q As of this point in time, was there a
19 decision that had been made by the Department of
20 Justice that they wanted to investigate the
21 circumstances of the finding of the note?

22 A Can you help refresh my recollection as to

1 what OPI stands for?

2 Q Could it be OPR, Office of Professional
3 Responsibility?

4 A It could be, and it seems like at some
5 point that became an investigation by Justice, but I
6 just don't recall the specifics of that.

7 Q During your conversation with Mr. Collier
8 on the 28th of July regarding access to documents,
9 did he tell you -- did he actually ask you to
10 reconsider the question of access to the Park Police?

11 A I'm not sure I understand your question.

12 Q When Mr. Collier had his conversation with
13 you on July 28, 1993 about the procedure at the
14 Foster office, did Mr. Collier ask you to reconsider
15 and allow the Park Police better access to the
16 documents?

17 A I do not recall that coming up.

18 Q Did you tell him it was none of his
19 business?

20 A I don't recall that coming up, either.
21 That's a week after the search took place. I don't
22 think the documents -- well --

1 Q That's the same call in which you explained
2 to him how happy the Park Police were, yes.

3 A That's a week after the search took place.

4 Q I understand. My question is --

5 A I think his call was to complain, he had
6 gotten some bad press and he called to complain to
7 the White House about it.

8 Q Did he ask you to reconsider the question
9 of access?

10 A I don't remember that, and that strikes me
11 as if it would be really an unusual request, since
12 that was a week after the search.

13 Q Did you tell him it was none of his
14 business?

15 A No, I wouldn't have responded that way,
16 because he would have been talking about probably
17 what was a physical impossibility at that point.

18 Q Which is getting to the documents?

19 A Right.

20 Q Because they had all been distributed?

21 A And the personal effects had gone, yeah.

22 Q Where were -- other than the personal

1 effects, where were the rest of the documents at that
2 point?

3 A Well, I assume other lawyers in the White
4 House were working on the matters that Mr. Foster was
5 working on.

6 Q Why would that have prevented the Park
7 Police from getting access to that?

8 A I guess it wouldn't have prevented it,
9 but -- I'll put it this way: It would have seemed to
10 be enough of a burden that I would have been able to
11 explain that to Mr. Collier if he had raised that
12 issue. We're talking about speculation here anyway.
13 I don't recall him asking to re-enact the search.

14 Q Because your response to him was that the
15 Park Police were more than happy with it in the first
16 place?

17 MR. CARBERRY: Mike, you're just arguing
18 with the man. This is the fifteenth time you asked
19 that particular question. You have a limit.

20 BY MR. CHERTOFF:

21 Q You can answer the question.

22 MR. CARBERRY: No, he won't answer that

1 question. You want to take him to court over that
2 question, do it. He's not answering that one.

3 MR. CHERTOFF: All right. I have nothing
4 more.

5 MR. BEN-VENISTE: Can we take a few
6 minutes?

7 MR. CARBERRY: Sure.

8 (Recess.)

9 EXAMINATION

10 MR. BEN-VENISTE:

11 Q Mr. Burton, my name is Richard Ben-Veniste
12 and I'm the special counsel to the Minority on the
13 Congressional committee. We have not talked
14 previously; is that true?

15 A That's correct.

16 Q You mentioned earlier in response to one of
17 Mr. Chertoff's questions that you had discussed a
18 certain matter in interviews that you and others have
19 conducted of me. What did you mean by that?

20 A I've just been questioned time and again on
21 this matter.

22 Q You didn't mean to say by Mr. Chertoff or

1 anyone on this special committee?

2 A No, I had never met him or you before this
3 afternoon.

4 Q So the other interviews that you have had
5 have been with the FBI and with representatives of
6 either Mr. Fiske's office or Mr. Starr's office or
7 both; is that correct?

8 A Or both, correct.

9 Q Let me ask you to look at Exhibits 450
10 through 453. And I ask you whether those appear to
11 be from the same type of spiral notebook as the last
12 series of exhibits which were shown to you by
13 Mr. Chertoff. Those would have been 1143 to 1151.

14 A Okay. Actually, I'm not sure all of these
15 are written on the same pages. We're dealing with
16 copies here that are a little hard to tell, but 452
17 particularly looks -- because of my name being
18 printed on the page, it looks like a little note pad
19 I used that wasn't a notebook at all. It was like
20 you might write a note to someone and rip it off the
21 pad and give it to him, versus a spiral-bound
22 notebook.

1 I can't really tell from these others. The
2 writing on the page doesn't go from top to bottom.
3 It's a long -- it's called a reporter's notebook,
4 which is what I use. And it just -- they may or may
5 not be. There's not the spirals copied at the top of
6 the page, for example, like are on some of the
7 others. I can't tell if it's lined paper or not.

8 Q This harks back to your earlier career as a
9 news reporter?

10 A I've always used those long skinny pads.
11 They fit in your jeans pocket.

12 Q Now, can you tell, although the first set
13 of documents are marked with the Z450, 451, 452, and
14 453, whether, in fact, 450 was written by you before
15 451 or 452 or 453?

16 A I cannot tell the dates on when these were
17 written. I seem to recall 451 being the night of the
18 death, because the discussion regarding Alice May
19 Foster and this Sharon, Ms. Lee Bowman was
20 conversations I had with George Frazier. But even as
21 I answer that, that could have been written the next
22 day because I had conversations with George Frazier

1 the next day as well.

2 Q Take a look at 453 and see where that seems
3 to fit into the sequence of events.

4 A Those look like notes from the night of the
5 death.

6 Q 453?

7 A Yes.

8 Q What about them would lead you in that
9 direction?

10 A There's a couple things. One is that it
11 says "Fort Marcy, body found. It's right on the
12 border between Arlington and Fairfax." Those are
13 counties in Virginia. That's the kind of information
14 I was getting during a spell there. "Body found,
15 self-inflicted, pistol in hand. No other
16 suspicious. 1989 Honda Accord." That's the kind of
17 information I was getting that night.

18 Sometimes I will rewrite my notes to make
19 them more neat if it's important, like telephone
20 numbers, and this is not the way I would have
21 rewritten them.

22 Q Now, the designations Z450, 451, 452 and

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1 453 were not designations made by you, were they?

2 A No.

3 Q And these designations were made without an
4 attempt by you to put them in chronological order as
5 best you could have. Is that fair to say?

6 A That's fair to say. I had nothing to do
7 with the order in which they were produced.

8 Q It has been testified to that you attended
9 a briefing conducted by Park Police Chief Langston
10 and Major Hines on the 21st of July in the morning.
11 Do you recall that?

12 A I do not.

13 Q Looking at Z450 again, can you tell that
14 you wrote the telephone numbers for Webb prior to
15 writing the information about "secure office?"

16 A I cannot. I cannot tell when -- oh.
17 There's something about the way the notes appear on
18 the page that indicate that the telephone number was
19 there prior to my listing of 1, 2, 3 and 4.

20 Q That is because 3 and 4 seem to be written
21 around physically the name of Web and the phone
22 numbers?

1 A That's correct.

2 Q Do you recall whether on the 21st of July,
3 there was some discussion about sealing the office
4 and posting a Secret Service guard at the door?

5 A I became aware at some point prior to the
6 search of the office on the 22nd that the office was
7 sealed and a Secret Service guard was in front of the
8 door. I don't remember when that was.

9 Q Do you think it's possible that Z450
10 reflects information which you learned on or about
11 the morning of the 22nd -- I'm sorry, of the 21st as
12 compared with the evening of the 20th?

13 A If I can look at it a second. I guess
14 anything is possible. I just don't recall. There's
15 a note that says "Susie Whitaker, Jefferson" up at
16 the top of the page. Susie Whitaker is a staff
17 member for the -- I think the DNC based in Arkansas
18 who called me to let me know she was staying at the
19 Jefferson, if there was any help she could give at
20 this time, to let her know. It seems like that call
21 came in the next day. That's the only thing about
22 any of this that jogs my memory.

1 Q Is there anything on Z450 that leads you to
2 believe that it only could have come to you on the
3 night of the 20th?

4 A No.

5 Q If the information about Webb Hubbell and
6 his phone numbers came to you on the 20th, does that
7 indicate to you that the rest of the note was written
8 on the 20th as well?

9 A No, it doesn't, not necessarily.

10 Q And do you draw any significance from the
11 fact that certain of the notations are made upside
12 down from certain of the other notations?

13 A I make -- the only inference I might make
14 from that is that it is more evidence, as opposed to
15 less, that it was written at two different times, as
16 opposed to just sitting down at one time. I don't
17 tend to turn my paper upside down and write the other
18 way. It's usually I pick up the note pad or the
19 notebook in a different way when I write in it.

20 Q When was the first you recall learning
21 anything about an autopsy and the time when an
22 autopsy would be conducted?

1 A I don't recall.

2 Q Do you recall learning anything about an
3 autopsy on the evening of the 20th?

4 A I don't recall when I learned or discussed
5 that with anyone.

6 Q Does the notation "7:00 a.m., July 22,
7 1993" in the context of an autopsy mean anything to
8 you as you sit here?

9 A It may indicate as to when the autopsy
10 would be. You know, again, I'm trying to remember.
11 There was some issue that arose as to when the
12 autopsy -- regarding transportation of the body back
13 to Little Rock for the funeral service. Web was
14 going to accompany the body back, so there became a
15 point as we were doing funeral services, working on
16 that, we needed to determine when the body would be
17 available to be flown back to Little Rock.

18 Q Let me ask you in the context of the
19 questions about the usher's office and the notations
20 on the at least two documents that have been shown
21 you today, referring to the usher's office. One I
22 believe was a notation that said if you need any

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1 information, ask me, something in substance. I'm not
2 portending to quote it verbatim.

3 Do you recall whether in July of 1993, you
4 personally had any knowledge of any issues Mr. Foster
5 was working on relating to the usher's office?

6 A Not prior to his death, I wasn't aware -- I
7 wasn't aware of anything.

8 Q Were you personally working on any issues
9 relating to the usher's office?

10 A No, I was not.

11 Q Were you aware of there being any
12 controversy involving the usher's office?

13 A There was a point sometime, I think, during
14 my first year in the White House, during calendar
15 '93, when an usher was dismissed, and that was a
16 pretty rare circumstance, and The Washington Post did
17 a story on it. That's the only thing I can remember.

18 Q But you were not personally responsible for
19 taking any action or conducting any investigation
20 with respect to that incident?

21 A No.

22 Q Now, you mentioned a reporter for CNN in

1 response to a question that Mr. Chertoff had asked
2 you. Who was that?

3 A I think we talked about Jill Dogherty, some
4 notes regarding a conversation I had with Jill
5 Dogherty.

6 Q You stated at some point you saw an
7 incorrect account in the press relating to whether
8 Mr. McLarty had ordered the office sealed. Would you
9 elaborate on that, please?

10 A Well, I remember seeing accounts in the
11 press stated as fact that Mr. McLarty had ordered the
12 office sealed on the night of Mr. Foster's death.
13 And I don't know if I testified that that was
14 incorrect. I just didn't know that for a fact. I
15 don't recall whether he did or not. And it seems
16 like he would have done that through me.

17 Q So on the basis of your personal knowledge,
18 you at least know if he had given such an order, it
19 would have been in a manner or through a chain of
20 command that was unusual, in your experience?

21 A Correct.

22 Q Did you discuss with any reporter this

1 statement that Mr. McLarty had ordered the office
2 sealed on the night of the 20th?

3 A The only discussion with a reporter
4 regarding that was Jill Dogherty's question to me
5 about that. And she may have simply been stating it
6 as a fact and I raised -- and I questioned it.

7 Q Do you have a specific recollection that
8 when Ms. Dogherty stated this as a fact, that you
9 took issue with it?

10 A No, I don't. What I have a recollection of
11 from the notes I looked at a little while ago was
12 that she recited some information to me about the
13 note, and she was trying to verify it. And the fact
14 that that statement, McLarty ordered office sealed,
15 whatever it was, was followed by a question mark with
16 a circle around it could mean that I was questioning
17 it but it could mean that I questioned it in my own
18 mind as opposed to telling her.

19 Q On the night of the 20th you indicated that
20 among the various things you did was make a number of
21 phone calls notifying individuals and to commiserate
22 with friends and colleagues. What was the mood at

1 the White House following the Larry King interview?

2 A It was very somber. Those of us who --
3 many people on the campaign had not known Vince
4 Foster because he didn't -- he wasn't around campaign
5 headquarters. He stayed -- he didn't work on the
6 campaign. But those of us who did know him were
7 shocked and extremely saddened and I think there was
8 a lot of support from those who didn't know him well
9 to those of us who did, to console us and sympathize
10 with us. I suppose that's -- I remember that a lot.
11 I felt like there was a lot of support and love for
12 one another expressed that evening.

13 Q When the torn-up writing was found, you
14 were present when the document was being pieced
15 together, I think you indicated, or that that process
16 was going on at the time you were notified?

17 A It was being completed.

18 Q Where did that occur?

19 A That occurred at the end of Mr. Nussbaum's
20 conference table in Mr. Nussbaum's office on the top
21 floor of the White House, west wing.

22 Q And who was attempting to piece this paper

1 together?

2 A Stephen Neuwirth.

3 Q He was doing that on his own?

4 A He was working by himself.

5 Q And could you observe him performing this
6 task?

7 A Yes, and as I walked in the room, I went
8 over and watched him complete the process.

9 Q Did you touch any portion of the note or
10 any individual piece?

11 A I recall doing so only because after the
12 fact I remember hearing that they were -- they
13 couldn't find any fingerprints on it, and I
14 remembered touching it.

15 Q And how did you touch it? Did you pick up
16 a piece or did you move it around the table or what
17 did you do?

18 A I think I moved a piece to make it easier
19 to read across.

20 Q And you've indicated with your left hand.
21 Do you think you would have touched it with your left
22 hand, the fingers of your left hand, or do you

1 recall?

2 A I don't recall. I'm left-handed.

3 Q Do you recall whether Mr. Neuwirth was
4 touching the note with his bare hand.

5 A Yes, he was.

6 Q Did you notice whether Mr. Nussbaum was
7 touching the note?

8 A I did not.

9 Q Did you touch the note with your palm?

10 A I don't recall.

11 Q Do you recall whether Mr. Neuwirth or
12 Mr. Nussbaum did, in your presence?

13 A I don't recall.

14 Q Was anybody expressing any sensitivity to
15 the question of whether any fingerprints were being
16 left or whether anything else was being obscured by
17 this process?

18 A I don't remember. I don't remember.

19 Q Did you discuss the content of the note at
20 the time that it was pieced together?

21 A Yes.

22 Q When was the first time that any discussion

1 of any privilege issues occurred in your presence?

2 A I think we discussed it there, right then.

3 I don't remember if we did it before or after we
4 called Mr. McLarty, but just contemporaneous with the
5 note, three lawyers finding a writing in a lawyer's
6 office, we discussed whether privilege might attach
7 to portions of the note.

8 Q Was that the first thing that was
9 discussed?

10 A It seems like it was among the first things
11 discussed, along with the other aspects of finding
12 the note, rather happenstancely.

13 Q Well, what do you recall occurring as you
14 joined in the conversation?

15 A I recall discussing the specifics of how he
16 found the note, because all three of us had been in
17 there when Bernie searched it, and I think we were
18 all surprised that a note had been found in an area
19 where we had -- where the search had been. And Steve
20 was explaining to us how that happened, how it -- you
21 know, how first just a piece or two fluttered out and
22 he kind of shook the bag and reached down and pulled

1 them out otherwise, you know, pulled out the pieces.
2 And we just discussed that at some length.

3 Q Now, let me come back to that conversation
4 and first ask you about Mr. Chertoff's question to
5 you about your observations on July 22 when
6 Mr. Nussbaum removed files from the same briefcase
7 that Mr. Neuwirth found this torn-up writing in.
8 Mr. Chertoff stated that you saw several paper clips
9 and a single yellow Post-it. Do you recall that? Do
10 you recall that was the question?

11 A I recall him asking me about it, and I
12 recall that, you know, that discussion I think
13 earlier. You're reading from a statement I gave the
14 FBI; is that correct?

15 Q No, I'm about to ask you about that.

16 A I'm sorry.

17 Q Do you recall that the question framed by
18 Mr. Chertoff was, in fact, contained in an FBI report
19 reflecting an interview of you, that is that you
20 observed the briefcase to be empty with the exception
21 of several paper clips and a single Post-it paper
22 located at the bottom of the briefcase? Now I am

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1 quoting from an FBI report reflecting an interview of
2 you on or about July 30, 1993.

3 A Obviously all these events were a lot
4 closer on my mind then, so it's not inconsistent with
5 what I do remember. My having stated that, I will
6 tell you I remember him taking all the documents out
7 of the briefcase and therefore noting that the
8 briefcase was empty.

9 Q Mr. Nussbaum noting it or you making a
10 mental note that the briefcase was empty?

11 A I made a mental note. I mentally noted
12 that the briefcase was empty, that he had taken all
13 the documents out of the briefcase. And it's very
14 possible that at that time -- I mean, you know,
15 within two weeks of that, that I may have recalled
16 even more specifics, I may have recalled what the
17 bottom of the briefcase looked like. As we sit here
18 today, I can't tell you with clarity that I remember
19 those paper clips and I remember that Post-it note at
20 the bottom of the briefcase.

21 Q Going back to the conversation which you
22 had on the 26th of July in Mr. Nussbaum's office, you

1 had been invited to join this meeting by

2 Mr. Nussbaum; is that correct?

3 A This is a meeting --

4 Q Where the note is being pieced together in
5 your presence.

6 A Yes, Mr. Nussbaum invited me to that
7 meeting.

8 Q And what did he say by way of inviting you
9 to the meeting?

10 A He said we found a note in Vince's office.
11 I think we ought to tell Mack.

12 Q Did you immediately tell Mr. McLarty or did
13 you just go to Mr. Nussbaum's office?

14 A We went to Mr. Nussbaum's office and looked
15 at the note.

16 Q Who is the "we"?

17 A Me, Neuwirth, Nussbaum, three of us.

18 Q Mr. Nussbaum had come to you personally?

19 A He personally came. He came to look for
20 Mr. McLarty. I am not sure he was aware Mr. McLarty
21 was out of town that day when he came into the
22 office. When he learned he was, he had me follow him

1 back to his office.

2 Q So the note was sitting on the table when
3 the three of you returned?

4 A The pieces of paper were, and Mr. Neuwirth
5 was finishing completing the task of putting the note
6 together.

7 Q So what was the first thing that was said
8 about this, that you recall, as you entered the
9 office?

10 A It seems like Bernie said -- Bernie was
11 talking about the note. I don't know that we
12 discussed the content of the note until we got in
13 there and were reading it. The note had been largely
14 put together. Like I said, Neuwirth was completing
15 it. It seemed like Bernie had a sense of, you know,
16 that this was a writing that -- you know, that
17 expressed some concerns Vince had. We read the note
18 together. In fact, I think if I remember right, we
19 transcribed the note. Bernie may have done the
20 transcription himself.

21 Q You're jumping a little bit ahead.

22 A I'm sorry.

1 Q What I'm trying to get to is, you know,
2 what the conversation was, as best you can remember
3 it, in sort of the order that it occurred. Let's
4 start with as you -- in your office, did Mr. Nussbaum
5 say anything about the discovery of the note or its
6 contents?

7 A He said, Bill, where is Mack? I said Mack
8 is in Chicago. And I'm not portending to quote
9 verbatim here, but this is generally the tone of what
10 we discussed.

11 Mack is in Chicago. He says, well, come
12 with me. I need to talk to you about something.

13 As soon as we walked outside my office,
14 Bernie started up the stairs, which was right down
15 the hall, Bernie said we found a note. I said, oh,
16 my gosh, what does it say? And we talked about the
17 note generally. I don't remember the specifics of
18 that conversation, but I said who found it? Where
19 was it found? He said it was in Vince's office.
20 Neuwirth found it. It's all torn up.

21 We get to Bernie's office, which is at the
22 top of the stairs, but it's like -- they're real tall

1 ceilings in the White House so it's tall stairs. We
2 go into Bernie's office, close the door. Steve is at
3 the end of the table piecing together this legal pad
4 piece of paper.

5 I said -- I remember early on having Steve
6 explain to me how he found the note, and he explained
7 in some detail.

8 Q Now, when you heard him explain in some
9 detail the business about squashing the briefcase
10 into the box and the briefcase being considered a
11 personal effect of Mr. Foster's to be returned to the
12 family along with others, did you discuss the fact
13 that this was the same briefcase that you had seen
14 Mr. Nussbaum go through on the 22nd of July?

15 A I don't remember discussing that
16 specifically, but it's very much the kind of thing we
17 were talking about. In other words, if there -- it
18 would not be inconsistent with what I remember if we
19 had -- if I had said, well, you've really got to
20 explain this to me because I saw Bernie empty it.
21 How could it have been in that briefcase? I can't
22 tell you I remember that discussion, but that's

1 consistent with the general tenor of our discussions
2 about the finding of the note.

3 Q Do you remember anything that Mr. Nussbaum
4 said about the circumstances of Mr. Neuwirth's
5 discovery, in view of Mr. Nussbaum's activities on
6 the 22nd in removing materials from that same
7 briefcase?

8 A No, I don't.

9 Q Did he seem surprised or shocked or amazed?

10 A All I can tell you is that it -- while it
11 seemed odd, once I learned the circumstances, it
12 didn't seem like the kind of thing you would submit
13 to Ripley's Believe It or Not. I mean, it seemed to
14 make sense and everybody's reaction was appropriate
15 to that.

16 I mean, people were surprised in that it
17 was found by happenstance and whatnot, but we all
18 understood exactly how that could have happened once
19 Steve explained it, including Bernie, including
20 Steve, including myself. We were all there.

21 But as to exact --

22 Q There is a wide gulf between things that

1 you see every day and things that are submitted to
2 Ripley's Believe It or Not, and perhaps this falls
3 somewhere in between those two poles, but I'm
4 wondering whether or not Mr. Nussbaum made any
5 statement that you can recall expressing surprise or
6 astonishment or chagrin or relief.

7 A I don't recall relief. I don't recall
8 chagrin. I think surprise is probably fair to say.

9 Q Once --

10 A Realization that this was going to create a
11 problem, that there was going to be a lot of interest
12 about this and this was going to, you know, re-invite
13 a whole new area of inquiry. You know, I don't know
14 what that emotion is, but that was one that was kind
15 of --

16 Q In some sense, then, that was an unwelcome
17 development because of the ramifications in terms
18 of --

19 A Sure, that was partly thinking in terms of
20 also how Lisa and the family would react.

21 Q Was there any discussion of whether this
22 was a helpful thing, that is the discovery of this

1 writing of Mr. Foster's, in the sense of providing a
2 greater degree of explanation for his action in
3 taking his life?

4 A I don't recall that discussion. I don't
5 recall that sentiment. I can't remember a lot of
6 people who were -- I mean scratch that. No, I just
7 don't remember that.

8 Q Was there any speculation on how Ms. Foster
9 might react to the finding of this note?

10 A No. There seemed to be a realization,
11 particularly among Bernie and myself, that Lisa would
12 want to know about it as soon as possible, and so
13 that was a high priority was to let Jim Hamilton know
14 and get word to her.

15 Q All right. So you concluded that there
16 would be some research into the issue of whether
17 there were privilege questions associated with the
18 publication of this note, by which I mean turning it
19 over to someone outside the White House and
20 Mrs. Foster. And you also discussed the issue of
21 advising Mrs. Foster of the existence of the note and
22 making its contents available to her; correct?

1 A Correct, yes.

2 Q Was there anything else that was discussed?

3 A Before the phone call with Mr. McLarty or
4 just generally?

5 Q In general. Was there a discussion
6 specifically over turning it over to law
7 enforcement? I take it at the time you discussed the
8 issues of privilege, you discussed whether those
9 issues would be balanced against legitimate questions
10 of need by law enforcement to review such a document?

11 A I don't think there was ever any doubt that
12 it would be turned over to law enforcement officials,
13 consistent with maintaining whatever privileges were
14 in there. And that was going to be the trick, if it
15 turned out there was some privilege that attached to
16 anything written there. But I don't really remember
17 it being a subject of dispute or debate or even
18 discussion, whether the existence of the writing
19 would be -- that law enforcement would be made aware
20 of that. It was merely how and to what extent.

21 Q You're suggesting that law enforcement
22 would be advised of the existence of the note but

1 might not be shown its contents because of some
2 privilege?

3 A Well, I guess I'm laying out the spectrum.
4 That's all the way over to one end. If every
5 piece -- if everything in that note was privileged by
6 some circumstance, I suppose there could be a
7 circumstance under which, you know, that a redacted
8 version of that, which would include no text, would
9 be turned over. But I mean, we're talking about
10 hypotheticals here that didn't come to be.

11 Q You're not suggesting that that was
12 actually discussed?

13 A No, no. What I'm talking about was that
14 there was no discussion about not turning it over.
15 It was assumed that it would be turned over.

16 Q And then you had a conversation with
17 Mr. McLarty, correct, by telephone?

18 A That's correct.

19 Q Who participated in that?

20 A Mr. Neuwirth, myself, Mr. Nussbaum and
21 Mr. McLarty. If Mr. McLarty was ever put on the
22 speakerphone, which it seems like he may have been --

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1 if he wasn't, then it was just me and Mr. McLarty
2 followed by Mr. McLarty and Mr. Nussbaum.

3 Q What do you recall as the substance of the
4 conversations with Mr. McLarty?

5 A There was an issue of whether Lisa has been
6 notified. There was an issue of privilege. And I
7 can't recall, but we -- well, that's all I
8 specifically recall.

9 Q In connection with the concern that the
10 family not learn about this through some news report,
11 but rather from the White House directly, was there
12 any concern that information concerning Mr. Foster's
13 suicide and the investigation thereof had been leaked
14 to the press up to that point?

15 A I don't remember if in that conversation
16 that was discussed, but that was certainly something
17 we were all aware of, everybody who worked on this
18 case. As soon as it got in -- as soon as it got in
19 Justice Department hands, FBI, whoever, it was -- the
20 information was leaked. We just knew that. I don't
21 recall if there was a discussion about it.

22 Q What was the result of the research into

1 the issue of privilege?

2 A I don't recall. I don't know that I ever
3 knew.

4 Q So you don't know whether you personally
5 followed up on the discussions regarding the question
6 of privilege?

7 A I know I did not follow up on the
8 discussion of privilege. That was legal counsel's
9 determination.

10 Q When did you learn that the note would be
11 turned over?

12 A Without any assertion of privilege?

13 Q Right.

14 A Tuesday, Tuesday.

15 Q From what source did you learn that?

16 A I don't recall. It was probably in
17 discussions with Bernie it became clear that the best
18 course was not to assert any privilege or to waive
19 any privileges that were in there or -- but a
20 determination was made -- following the discussion on
21 Monday night, a determination was made Tuesday to
22 turn the note over.

1 Q Do you know who participated in that
2 determination?

3 A Other than Mr. Nussbaum, and I'm assuming
4 Mr. Neuwirth and other counsel office -- no.

5 Q Do you know whether Mr. McLarty was
6 consulted?

7 A No, I don't.

8 Q Was there any determination that the note
9 should be shown to anybody else other than
10 Mrs. Foster?

11 A Was there any -- repeat your question.

12 Q Was there any discussion about whether the
13 note should be shown to any other individual within
14 the White House?

15 A Well, there was two things in that regard.
16 It seems like in the conversation with Mr. McLarty,
17 there may have been a discussion that night that it
18 would not be discussed with the President until
19 Tuesday, until after, you know, some research, some
20 clarification had been done. And other than -- and
21 then I think at some point after we talked to
22 Mr. McLarty, the decision was made to notify the

1 First Lady.

2 Q And do you know who performed that
3 function?

4 A I think Mr. Nussbaum did.

5 Q And what were you told about that?

6 A I don't remember being told anything about
7 that.

8 Q In other words, you learned that a decision
9 had been made that the note be shown to the First
10 Lady, but you didn't hear anything further on it?

11 A No. After we made the phone call to
12 Mr. McLarty, Mr. Nussbaum said he was going to tell
13 the First Lady. He left his office, came back into
14 his office. The First Lady accompanied him. She was
15 told of the note. There was a brief discussion, the
16 specifics of which I do not remember, and she left.
17 And I don't think she even read the note.

18 Q Were you present?

19 A Yes.

20 Q And the substance of the note was
21 described?

22 A Yes.

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1 Q Was there any request as to -- for her view
2 as to whether or not the note should be turned over?

3 A The only discussion I recall about that
4 was -- again, I don't recall there ever being
5 discussion with anyone about whether the note should
6 be turned over or not. I do recall her saying that
7 as to privilege assertion or as to when the President
8 should be told or notifying Lisa, that was not in her
9 domain, that was not part of the stuff she did. And,
10 you know, her being in the office just almost
11 momentarily.

12 Q So in substance, it was the First Lady's
13 view that these decisions should be made by
14 Mr. Nussbaum?

15 A By people other than her.

16 Q So rather than say that's your decision,
17 she indicated that it was not her decision?

18 A That's what I remember, was that's not my
19 decision.

20 Q With respect to this note, which is Z514,
21 which seems to say "two points"?

22 A Correct.

1 Q And then "far happier if disc., if someone
2 other than Bernie," with the "other" underlined
3 twice.

4 I take it you have been shown this
5 document -- that is your note marked Z514 -- on
6 occasions prior to today?

7 A It's possible. I don't have a recollection
8 of that. I recall seeing it today, but I don't
9 recall seeing it before today. I don't recall one
10 way or another.

11 Q The notation "if worried about usher's
12 office, discuss with me."

13 A I see that.

14 Q Could the "me" be anybody else but you,
15 given the fact that this is written in your hand?

16 A Actually, it could be somebody else. I
17 don't know who else it could be, but it could be.

18 Q And how would you reason that it could be?

19 A If I was transcribing a discussion with
20 Sylvia Mathews, for example, just to throw out a name
21 that in all likelihood it's not, because I simply
22 don't remember, maybe those are two points she was

1 making and I just transcribed it literally. But the
2 more likely explanation is that it means me, but I
3 don't know.

4 Q And since you didn't know anything
5 substantively about anything to do with the usher's
6 office, other than what you had read about in the
7 paper and maybe water cooler chitchat from the
8 incident involving the dismissal of one individual,
9 it would seem not to make sense for somebody to
10 contact you if they were worried about the usher's
11 office. Is that fair to say?

12 A That's fair.

13 Q So this remains inexplicable to you?

14 A I just don't know who I was having that
15 discussion with or even if it reflects a discussion.

16 Q So my next question is whether this circle
17 with a line through it has some particular meaning in
18 terms of the way you ordinarily take notes, to
19 reflect either something that departs from the
20 earlier part of the note or some other shorthand
21 designation on your part?

22 A It can mean that, that's right. It

1 generally indicates transition, but it could be
2 transition within a meeting or transition from one
3 meeting to another meeting.

4 Q And as you sit here now, your recollection
5 is that the task of trying to notify the Foster
6 family about the discovery of this note was left to
7 Mr. Nussbaum, who, to your knowledge, attempted to
8 contact Mr. Hamilton right away?

9 A He was going to contact Mr. Hamilton, it
10 was my understanding, and I recall that Lisa came to
11 the White House to view the note on Tuesday after a
12 travel day.

13 Q And who was present on that occasion?

14 A I do not know. I was not.

15 Q You were not. You were told about it?

16 A I did not see Lisa that day.

17 Q Have you described completely everyone who
18 came into Mr. Nussbaum's office while the note was on
19 his conference table, as best you can recall?

20 A As best as I can recall.

21 Q Now, when Mr. Collier telephoned you to
22 discuss issues relating to the investigation, you had

1 indicated that by this time some kind of unfavorable
2 press reports had been written about the Park Police
3 investigation?

4 A That's my recollection.

5 Q What do you recall about those unfavorable
6 reports?

7 A My recollections are general, but it seems
8 like there was an article, perhaps in The Washington
9 Post, that was critical of the Park Police
10 investigation to date, including a criticism of the
11 procedures they used in searching Vince Foster's
12 office. But that's a matter of record and I haven't
13 refreshed my recollection on it lately.

14 Q But your view was that the Park Police had
15 received some bad publicity at the time that
16 Mr. Collier called and that Mr. Collier's interest
17 was that others, other than the ones who were making
18 the initial decisions about this investigation from
19 the White House, were to take charge or play a more
20 active role?

21 A That's generally my recollection. Let me
22 make one clarification and it concerns something with

1 the way Washington works. Washington works on news
 2 cycles, so it's possible -- as opposed to something
 3 appearing in the paper -- since I can't recall what
 4 the date of the article was, it could be that
 5 Mr. Collier was receiving press calls that day and
 6 realized he was about to receive bad publicity. You
 7 understand my point here. In other words, I can't
 8 say that the article had already appeared. It seems
 9 like it had but it's possible we knew it was coming.

10 Q And Mr. Collier said that decisions were
 11 made by individuals who, in his opinion, were too
 12 close to Mr. Foster?

13 A He questioned Mr. McLarty's involvement,
 14 and I responded to him by saying, well, a lot of us
 15 from Arkansas knew Vince, and he said well, maybe --
 16 I mean, you know, basically suggested well, perhaps
 17 none of us should be involved, at which point it's
 18 when I turned him over to Roy Neel.

19 Q So it was your view that a lot of the
 20 criticism that was coming toward the White House from
 21 the Park Police and others was not a reflection of
 22 the contemporaneous events, that is the procedure for

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1 reviewing of files in Mr. Foster's office, but rather
 2 a reaction to criticism that those agencies were
 3 beginning to receive in the public media?

4 A Yes, that's my strong belief. It's my
 5 strong belief that it wasn't contemporaneous because
 6 I was there when it was contemporaneous and they had
 7 no complaints.

8 (Pause.)

9 MR. BEN-VENISTE: I have nothing further.

10 MR. CHERTOFF: Just very briefly.

11 EXAMINATION

12 BY MR. CHERTOFF:

13 Q Mrs. Clinton came down to Mr. Nussbaum's
 14 office in your presence on the Monday on which the
 15 note was found?

16 A That evening, yes, sir.

17 Q And this occurred how long after you had
 18 been invited up to look at the note?

19 A Within a few minutes. I was only in the
 20 office a few minutes.

21 Q So I want to make sure I have the sequence
 22 correct. You're in your office and Mr. Nussbaum came

1 down; correct?

2 A Correct.

3 Q He asked you to come upstairs with him;
4 correct?

5 A Yes.

6 Q On the way up he told you that a writing
7 had been found; correct?

8 A Yes.

9 Q He took you into the White House counsel's
10 suite and into his own office; correct?

11 A Yes.

12 Q At that point he shut the door?

13 A I remember the door was closed while we
14 were in there.

15 Q You came in and you saw Mr. Neuwirth
16 finishing the process of putting together the note;
17 correct?

18 A Yes.

19 Q You went over and you read it; correct?

20 A Yes.

21 Q In fact, you actually moved a piece in
22 order to have a clearer look; correct?

1 A Yes.

2 Q You had some discussion with Mr. Nussbaum
3 and Mr. Neuwirth concerning the way it was found;
4 correct?

5 A Yes.

6 Q At that point, Mr. Nussbaum said I want to
7 go tell the First Lady about it?

8 A No. My recollection is we called and
9 informed Mr. McLarty.

10 Q And you had a phone conversation?

11 A That's correct.

12 Q And then after the phone conversation
13 ended, what happened?

14 A I'm not sure of this sequence of events.
15 What else I remember happening in that meeting in
16 Mr. Nussbaum's office was another phone conversation
17 with Mr. McLarty in which we learned that he had told
18 Mr. Gergen, and I remember Bernie going to get the
19 First Lady to bring her into the office and to let
20 her know. I do not remember the chronology of the
21 second phone call with Mr. McLarty and the brief
22 meeting with Mrs. Clinton.

1 Q During the conversations with Mr. McLarty,
2 either the first one or second one, was Mr. Gergen on
3 the phone?

4 A Not that I recall.

5 Q During the first or second conversation
6 with Mr. McLarty, did anybody read the note to
7 Mr. McLarty?

8 A I think we did in the first conversation.

9 Q And it was only one page; correct?

10 A It was one page.

11 Q Did Mr. Nussbaum tell you he was going to
12 go tell the First Lady about this?

13 A I knew he was going to. I think that's --
14 I think he told me.

15 Q He left the room; correct?

16 A Right.

17 Q Some minutes later he came back in;
18 correct?

19 A That's correct.

20 Q The First Lady was with him; correct?

21 A That's correct.

22 Q Did they shut the door again?

1 A That's my recollection.

2 Q What was the discussion in your presence in
3 the room?

4 A As I testified earlier, I do not remember
5 the specifics of it, but I think Bernie -- but it
6 could have been Steve or myself chiming in, if you
7 will -- explained that Steve had found the note, that
8 it was a note in which Vince had expressed some
9 concerns about some matters in the White House. And
10 we were talking about -- and we had informed McLarty
11 and we were talking about what to do about it. And
12 Mrs. Clinton said I don't know why you're involving
13 me. That's not my decision.

14 Those aren't her verbatim, but --

15 Q In substance?

16 A She didn't understand why she was being
17 involved and left the room.

18 Q And that was it?

19 A And that was it.

20 Q Did you read her the note?

21 A I did not read her the note. I don't
22 remember anyone else reading her the note. And in

1 fact, I do remember her leaving the room without
2 knowing what the note said.

3 Q Didn't that strike you as very odd?

4 A No.

5 MR. CHERTOFF: I have nothing further.

6 MR. BEN-VENISTE: Thank you.

7 MR. CARBERRY: Can we have just two
8 minutes?

9 MR. BEN-VENISTE: Sure.

10 (Recess.)

11 MR. CARBERRY: We have nothing to add.

12 (Whereupon, at 6:02 p.m., the deposition
13 was concluded.)

14

15

16

BILL BURTON

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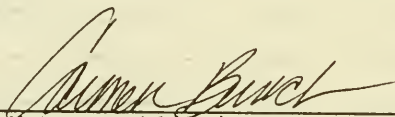
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

DEPONENT Charles William Burton

ERRATA

[illegible]

**EXHIBIT CWB 1 WAS NOT PROVIDED
IN TIME FOR PUBLICATION**

**DEPOSITION OF JOSEPH H. PHILLIPS
IN RE: S. RES. 120**

WEDNESDAY, JULY 5, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JOSEPH H. PHILLIPS, called for examination pursuant to notice of deposition, at 3:06 p.m. in Room 640-A of the Hart Senate Office Building, before LORI J. SEGNERI, a Notary Public within and for the District of Columbia, when were present:

EVERETT C. JOHNSON, JR., Esq.
Majority Deputy Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

TIMOTHY M. FOLEY, Esq.
Special Agent/Attorney
U.S. Secret Service
Office of Chief Counsel
1800 G Street, NW
Room 842
Washington, DC 20223
On behalf of the Deponent.

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P R O C E E D I N G S

Whereupon,

JOSEPH H. PHILLIPS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. JOHNSON:

Q Good afternoon, Mr. Phillips. We've had an opportunity to chat off the record, so for the benefit of the record let me just tell you again who I am. My name is Everett Johnson and I'm one of the attorneys working for the Majority staff on the Special Senate Committee investigating the Whitewater and related matters.

What brings us here today is Senate Resolution Number 120, which constitutes the and authorize the staff of the Committee to investigate certain matters. In particular today, I want to talk with you about the events surrounding the death of Vincent Foster, who was deputy White House counsel and who died on July 20, 1993. And the questions that I ask you today and that Mr. Ivey may ask you

4

today will relate generally to that event and the investigation into Mr. Foster's death. As a preliminary matter, have you been deposed before? I don't mean in connection with this matter but just ever?

A Not that I know.

Q A couple of quick procedural things that will help us go a little faster. Ms. Segneri is our court reporter and she'll make a verbatim transcription of the questions that we ask you and the answers that you give. And for her to do that it's important that we not speak simultaneously. So if you will allow me to complete the question before you answer it, even though you may well know what the question is, just so she will have the opportunity to transcribe it. It's also important that you respond verbally to the questions because she doesn't have a way of recording gestures or sorts of nonverbal communication.

If you need a break at any time or if you need to consult with your counsel at any time, simply say so. You're free to do that. And if a question I

1 that I've asked or Mr. Ivey has asked is unclear to
2 you in any way, simply tell us and we'll try and
3 clarify it. There is nothing in our questions that's
4 designed to be tricky or deceitful in any way. Does
5 that all make sense so far?

6 A Yes, it does.

7 Q In preparing to testify today, did you meet
8 with anyone to discuss the deposition?

9 A Just my counsel.

10 Q Who was present during the meeting?

11 A He and myself.

12 Q Other than that meeting between Mr. Foley
13 and yourself, did you discuss your deposition
14 testimony with anyone else here today?

15 A No, sir.

16 Q Okay. Why don't you take 30 seconds and
17 explain your working history with the Secret Service,
18 if you would.

19 A I'm with the United States Secret Service
20 uniformed division. I've been with them for 19
21 years. At the present time I'm assigned to the
22 special operations branch, which handles the tours

1 and social functions at the White House.

2 Q Focusing now on July of 1993 where were you
3 assigned at that time?

4 A Special operations branch at that time.

5 Q Okay. Let me direct your attention back to
6 the Tuesday of July 20th, 1993. Do you recall what
7 hours you worked on that day?

8 A My normal working hours were 6:30 a.m. to
9 3:00 p.m.

10 Q And to the best of your recollection, did
11 you, in fact, work on Tuesday July 20th?

12 A To my knowledge, yes, I did.

13 Q You don't specifically recall, but
14 ordinarily you would have worked on a Tuesday; is
15 that right?

16 A Correct. My days off are Sunday and
17 Monday.

18 Q Okay. When did you first learn of
19 Mr. Foster's death?

20 A The morning after the incident took place.

21 Q Okay. And how did you learn it?

22 A It was on the news, television.

1 Q I see. Did you come to work at 6:30 in the
2 morning on the 21st?

3 A To the best of my ability, to my knowledge,
4 yes. I can't remember back to that day and I do not
5 have a record of that with me, but yes.

6 Q And I take it at some time during that day
7 you were contacted in connection with Mr. Foster's
8 office and the White House; is that correct?

9 A Yes.

10 Q Tell me what you recall about that.

11 A I was informed to respond over the west
12 wing. I was given orders by Inspector Dennis Martin
13 to go to his office and make sure no one enters his
14 office door.

15 Q By "his office," you mean Mr. Foster's
16 office?

17 A Yes, yes, sir. I'm sorry.

18 Q Do you recall what time of day you were
19 given those orders?

20 A No, sir, I cannot remember. This has been
21 too long.

22 Q Did you say generally it was before or

1 after lunch for example?

2 A Once again, sir, I can't, honestly.

3 Q Just don't have any recollection?

4 A None whatsoever.

5 Q Do you, in fact, remember going over and
6 standing outside of Mr. Foster's door?

7 A Yes, I do.

8 Q Who was in the White House counsel's office
9 when you were there, if you recall? Let me -- I
10 realize that question wasn't very clear. By "the
11 White House counsel's office," I mean the White House
12 counsel's suite of office, which would include
13 Mr. Nussbaum's office, Mr. Foster's office and the
14 secretarial reception area.

15 A Sir, if you want me to give names, I really
16 cannot remember the names. I probably didn't even
17 know all the secretarial ladies' names. I'm sure
18 Mr. Nussbaum was in his office. He was in and out
19 periodically throughout the entire day. But
20 secretaries I can't remember their names, no.

21 Q I won't take you through a long list of
22 people, but lots of people who work in the White

1 House are recognizable to you by face, simply because
2 they are known to the public, I take it; is that
3 correct?

4 A Yes.

5 Q Did you recognize anyone other than perhaps
6 Mr. Nussbaum in the White House counsel's office
7 suite that morning when you were there?

8 A I mean, did I -- I mean the secretaries
9 were there, but there wasn't anybody but the
10 secretaries sitting at their locations.

11 Q The President didn't come in while you were
12 there?

13 A No, sir.

14 Q Okay. Would you recognize Ms. Williams or
15 Ms. Thomasson?

16 A Not really, no, sir.

17 Q How long did you stand outside Mr. Foster's
18 office on that day?

19 A I can't give you the exact times of how
20 long I was there. It was a pretty lengthy day
21 because we were not going to be allowed to leave the
22 office until they placed a lock on the door. And I'm

10

1 not quite sure what time the lock was finally put on
2 the door. I was relieved of the duties and was
3 allowed to go home just prior to the lock being
4 completed.

5 Q So you stayed later than your normal 2:30
6 in the afternoon departure time?

7 A Yes, sir.

8 Q When you were given orders to stand outside
9 of Mr. Foster's door, and I think you said don't let
10 anyone in; is that correct?

11 A Yes, sir.

12 Q Do you have any understanding at that time
13 about why you were not to let anyone in the room?

14 A No.

15 Q No one said and the reason we need to do
16 this is, for example, and offer some reason or
17 anything like that?

18 A No. I didn't care.

19 Q Didn't care. During the time that you were
20 there -- and I realize you don't remember exactly how
21 long that was -- did anyone enter Mr. Foster's
22 office?

1 A No, sir.

2 Q Okay. Was the office open or closed? And
3 by that I mean was the door to Mr. Foster's office
4 open or closed when you were there?

5 A Closed.

6 Q Did you ever open and look in?

7 A No, sir.

8 Q Is it fair that for the entire time you
9 were there the door remained closed?

10 A Yes, sir.

11 Q Other than the time that you stood outside
12 Mr. Foster's office on the 21st of July 1993, what
13 other involvement, if any, did you have in the
14 investigation into Mr. Foster's death or the handling
15 of Mr. Foster's office or its contents?

16 A None whatsoever.

17 Q This is the only time that you ever played
18 any role; is that correct?

19 A Yes, sir.

20 Q Either on the 21st, Mr. Phillips, or at any
21 other time, did you ever come to learn anything from
22 any source at all about whether or not any of the

12

1 contents of Mr. Foster's office had been disturbed
2 prior to the Secret Service guard being placed there?

3 A Not to my -- nothing. No materials were
4 removed or placed and taken in his office while I was
5 there. And I had no reason to even care one way or
6 the other what was --

7 Q And I take it, as you sit here today, other
8 than the fact that you know that nothing was placed
9 in or removed while you were there, you don't have
10 any knowledge at all from any source at all about
11 whether or not anything was ever removed or --

12 A No, sir, I do not.

13 Q Have you heard of any observations or --
14 strike that, Lori. I'm sorry.

15 On the morning -- do you know a fellow by
16 the name of Craig Livingston?

17 A Yes, I do, sir. I think he is the
18 security -- in charge of security at the White House
19 branch at one time. Am I correct? I know the name.
20 I can't remember what his title is. Okay.

21 Q Has anyone ever told you that they saw
22 anyone removing any documents from the White House

1 west wing at any time? And I mean in connection with
2 Mr. Foster. Obviously documents come and go all the
3 time, but have you heard anything at all from any
4 source at all --

5 A No, sir.

6 Q -- about the removal of documents?

7 A No, sir.

8 Q Did anyone ever tell you that they did not
9 remove any documents?

10 A No one has ever mentioned anything to me
11 about Mr. Foster -- documents being removed of any
12 kind, ever.

13 Q And I take it that other than that period
14 of time when you stood outside Mr. Foster's office on
15 the 21st, you don't have any other knowledge from any
16 source at all about Mr. Foster's death or the
17 investigation or his documents?

18 A No, sir, nothing except what the news media
19 put on TV.

20 Q And the news media has, from time to time,
21 reported that Secret Service agents may have seen
22 this or may have seen that. I take it you didn't

1 follow up or investigate that?

2 A No.

3 Q Never had any discussions with fellow
4 agents about that?

5 A No.

6 MR. JOHNSON: Mr. Phillips, thank you very
7 much. Mr. Ivey may have some questions for you. I
8 don't have any further questions. If Mr. Ivey does,
9 I will come back at the end and say a word about
10 confidentiality. I appreciate your cooperation.

11 EXAMINATION

12 BY MR. IVEY:

13 Q I will be brief, too. I want to know, were
14 you the first guard there at the door?

15 A I don't think so, no. Okay. I can't
16 remember exactly, but I'm almost positive I was not
17 because I relieved somebody. I can't remember who I
18 relieved.

19 Q Maybe somebody named Young, Jimmy Young?

20 A I don't think it was Jimmy Young. I think
21 it was Michelle Macon, but don't quote me on that. I
22 really, truly don't know who I -- I remember there

1 was like four or five of us there throughout the day,
2 if I remember correctly. It's been what, two years,
3 gosh, so I can't remember exactly who it was, but I
4 think it was Michelle Macon who I relieved.

5 Q What about Robert Popik? Do you remember
6 that name?

7 A Yes, I do.

8 Q Do you remember with respect to --

9 A He was also one of the ones who was
10 standing there at the door. I don't know exactly
11 what hours he stood there, either. I can't remember
12 our hours.

13 Q Would you normally do a shift of an hour or
14 two and then rotate, or how would it work?

15 A I think we had -- when I was there, it was
16 an hour on, hour off.

17 Q Okay. And do you recall if you were there
18 in the morning or afternoon?

19 A I think I started that particular time of
20 standing in front of the door was in -- once again,
21 I'm not sure, but I think it was early afternoon when
22 I started doing the rotation.

16

1 Q And you said you were relieved so that you
2 could leave at about your regular time. Do you
3 recall who relieved you?

4 A No. I really truly -- I think it was
5 other -- Bob Almasy, I think, was my relief. I'm not
6 sure. Don't quote me on that.

7 Q You mentioned that there were some
8 instructions that you were given, I think you said by
9 Mr. Martin -- Inspector Martin with respect to the
10 office. Did you talk to any of the other people that
11 were guarding the office about the way you should
12 handle your duties there?

13 A No. Because Inspector Martin was very
14 clear, he just said don't let anybody in, if anybody
15 tries to come in contact me for approval. And no one
16 even attempted to go in.

17 Q Did anybody keep a log of who entered or
18 left that you're aware of?

19 A I'm sure -- I don't know. I don't know.
20 Let me answer that question that way. I do not know
21 if a log was kept or not.

22 Q Let me give you this, page 2558 from the

1 hearing record from last summer, and ask you to take
2 a look at it. Read through it, see if it helps you
3 remember anything or if you think there's anything
4 particularly noteworthy about it.

5 (Witness reviewed the document.)

6 A None of these things show any -- it's not
7 my handwriting or anything. This doesn't help me in
8 any way.

9 Q Okay. Did you ever see a log that looked
10 like that?

11 A No, I did not.

12 Q Okay. You mentioned that you were going to
13 have to stay, or the uniformed division, I take it,
14 would have to stay at the office until a lock was
15 installed. How did you find out about that?

16 A The lock?

17 Q Right.

18 A I really don't know. I think either
19 Inspector Martin or Special Agent Don Flynn, one of
20 the two, probably told me there was going to be a
21 lock put on the door and once the door was locked and
22 secured -- I don't remember which one told us. One

18

1 of the two probably told me. My orders came from
2 Inspector Martin. Inspector Martin is inspector of
3 the uniformed division. Special Agent Donny Flynn,
4 he's an agent with the Secret Service. I'm not sure
5 what his duties were at the present time at the White
6 House.

7 Q Let me show you this document, it's FBI
8 055, and ask you to take a look at it.

9 (Witness reviewed the document.)

10 Is this a statement you recall giving?

11 A Yes.

12 Q Is this correct about Jimmy Young being
13 your --

14 A Yes, it obviously was at the time. So that
15 obviously cleared up who was working opposite me at
16 the time. Thank you. I couldn't even remember who
17 it was. I really didn't. You have to remember how
18 many bodies we work with on a daily basis. There's
19 27 of us in the SOS branch.

20 Q It could be any number of those, sure.

21 MR. IVEY: Okay. I have -- I don't think I
22 have anything else. Thank you for your time.

1 MR. JOHNSON: Thank you, Mr. Phillips.
2 Mr. Ivey will join me in this request: The
3 confidentiality in these proceedings is extremely
4 important to us and we would be grateful if you
5 wouldn't discuss your deposition here with anyone.
6 Thank you, sir.

7 THE WITNESS: No problem.

8 MR. JOHNSON: We're all finished.

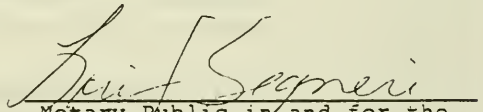
9 (Whereupon, at 3:25 p.m., the deposition
10 was concluded.)

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12 -----
13 JOSEPH H. PHILLIPS
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, LORI J. SEGNERI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires OCTOBER 31, 1996

**DEPOSITION OF
GEORGE R. STEPHANOPOULOS
IN RE: S. RES. 120**

WEDNESDAY, JULY 5, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of GEORGE R. STEPHANOPOULOS, called
for examination pursuant to notice of deposition, at 9:30 a.m. in
Room 640-A of the Hart Senate Office Building, before JULIE
BAKER, a Notary Public within and for the District of Columbia,
when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

STANLEY M. BRAND, Esq.
Brand, Lowell & Ryan
923 Fifteenth Street, NW
Washington, DC 20005
On behalf of the Deponent.

APPEARANCES

THOMAS B. GRIFFITH, Esq.
Deputy Senate Legal Counsel
Office of Legal Counsel
U.S. Senate
Room 642, Hart Building
Washington, DC

ALSO PRESENT: NGUYEN-HONG HOANG

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EXHIBITS

George R. Stephanopoulos

DEPOSITION NUMBER

IDENTIFIED

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Exhibits Z96 through Z114 33, 2326

P R O C E E D I N G S

Whereupon,

GEORGE R. STEPHANOPOULOS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q Good morning, Mr. Stephanopoulos. My name is Robert Giuffra; I'm chief counsel of the Senate Banking Committee. To my right is Neal Kravitz, who is principal deputy special counsel for the Democrats.

Would you please state your name for the record?

A George Robert Stephanopoulos.

Q And the spelling of your last name?

A S-t-e-p-h-a-n-o-p-o-u-l-o-s.

Q And I note that you're represented by Mr. Brand. If he would state an appearance for the record?

MR. BRAND: Stanley Brand, counsel for Mr. Stephanopoulos.

1 BY MR. GIUFFRA:

2 Q This is a deposition conducted pursuant to
3 Senate Resolution 120. This resolution establishes a
4 Special Committee administered by the Banking
5 Committee to conduct an investigation involving
6 Whitewater Development Corporation and related
7 matters. Section 1.B.1 of Senate Resolution 120
8 authorizes investigation and public hearings into
9 "whether improper conduct occurred regarding the way
10 in which White House officials handled documents in
11 the office of White House Deputy Counsel Vincent
12 Foster following his death." And you understand that
13 will be the focus --

14 A Right.

15 Q -- of today's deposition. When did you
16 learn that you would be asked to testify before the
17 Senate on this round?

18 A I don't even know. It was on my schedule
19 this morning, to tell you the truth.

20 MR. BRAND: Jane called me last week or the
21 week before.

22 BY MR. GIUFFRA:

1 Q This is a deposition in advance of public
2 hearings in July, and there's some possibility you
3 may be asked to testify, although it will all depend
4 on your testimony today.

5 I will be asking you a series of questions,
6 then Mr. Kravitz will be asking you a series of
7 questions. You'll be testifying under oath. If at
8 any time you don't understand a question, please let
9 me know. If you feel a question is tricky or
10 misleading, let me know, and we'll rephrase the
11 question. If at any point today you need a break,
12 let us know, and we'll go forward.

13 The stenographer will prepare a record of
14 the questions and answers. This deposition will be
15 treated as something called committee confidential
16 until the commencement of the hearings, meaning it
17 will not be disclosed to the public. Although,
18 probably after the hearings are over --

19 A Just like last time.

20 Q We've been doing pretty well so far. It
21 will probably be published in a book like this. You
22 have a right to be represented by counsel; you've

1 chosen to do so. Counsel can object to the form of
2 the questions. Counsel may also object on grounds of
3 privilege or relevance. With regard to objections to
4 relevance, we will either proceed, or we can ask the
5 committee's chairman to rule on such objections.

6 You'll have an opportunity to correct any
7 errors in the transcription, and I should let you
8 know that deposition transcripts will be made
9 available in a secure room in the Senate four days
10 prior to the start of hearings so you can review
11 them. If you're asked to testify, we'll make a copy
12 of the deposition available to your counsel four days
13 before you're asked to testify, and we'll ask that
14 your counsel keep the deposition transcript
15 confidential and not show it to anyone else.

16 Am I correct you previously testified
17 before the Senate in July of '94 in a deposition?

18 A Deposition, yes.

19 Q Did you speak to anyone other than your
20 counsel prior to this deposition?

21 A No.

22 Q The committee has requested that the White

1 House provide documents relating to the issue of the
2 handling of the papers in Mr. Foster's office. Did
3 you prepare any documents relating to that matter?

4 A I didn't have any.

5 Q And your present position, am I correct --
6 just looking back over your prior deposition --

7 A Senior advisor to the President.

8 Q Was that your position on July 20, 1993?

9 A Yes.

10 Q And what was your prior position at the
11 White House?

12 A Communications director.

13 Q What was the period in which you held that
14 position?

15 A January to June.

16 Q Was it June 1 --

17 A June 1, I think.

18 Q Did you hold a position in the Clinton
19 campaign?

20 A Yes, deputy campaign manager and
21 communications director.

22 Q Just briefly, what were your

1 responsibilities on July 20, 1993 at the White House?

2 A Senior advisor to the President, gave
3 advice on a range of policy and political matters.

4 Q Did you have any continuing responsibility
5 for communications matters?

6 A Only to the extent -- not managing
7 department, just the extent where policies have to be
8 publicly communicated. I could give advice on that.

9 Q Did you do so on occasion?

10 A Sure.

11 Q Where was your office located on July 20,
12 1993?

13 A Where it is now. It's next to the
14 President's. It's in his suite.

15 Q So that would be on the --

16 A First floor of the west wing. It's between
17 the deputy chief of staff and the President.

18 Q What was your office telephone number at
19 that time?

20 A I don't know. I assume it's the same as it
21 is now; I assume it's 456-7105, but we've changed
22 phones. I think that's probably right, but I

10

1 couldn't swear to it.

2 Q Did you have more than one telephone
3 number?

4 A I have a private line, but hardly anybody
5 uses it. I don't even know the number of my private
6 line.

7 Q Would that be a number that other people at
8 the White House would be aware of?

9 A I have like two friends who have the
10 number, and I literally don't have it.

11 Q If someone wanted to contact you --

12 A They would call me at 7105.

13 Q On July 20, 1993, were you working with
14 Mark Gearan on a regular basis?

15 A Oh, sure.

16 Q And also with Dee Dee Myers?

17 A Uh-huh.

18 Q You should --

19 A Yes, I'm sorry.

20 Q And also with Lisa Caputo?

21 A Yes.

22 Q In your capacity as senior advisor to the

1 President, would you have have been a regular
2 attendee at senior staff meetings during this period?

3 A Yes.

4 Q Who else attended the senior staff meetings
5 during this period, July 20, 1993?

6 A It depends on which meeting. I mean, the
7 morning meeting in the Roosevelt Room, 30 people.

8 Q Do you have the names of the people who
9 attended during this period?

10 A No. I could give representative --

11 Q What would be a representative sampling of
12 the people --

13 A Mack McLarty, Phil Lader, Mark Gearan,
14 Dee Dee Myers, Bernie Nussbaum, Bruce Lindsey, Carol
15 Rasco, sometimes Leon Panetta, Jack Gibbons, Gergen,
16 Howard Pastor, 15 other people.

17 Q Would Mr. Foster have been a regular
18 attendee at these meetings?

19 A I don't think so, no. He would sometimes
20 come, I guess if Bernie wasn't around, but I have no
21 memory of that.

22 Q Did Maggie Williams attend those meetings?

1 A Generally.

2 Q Do you recall if Patsy Thomasson would have
3 attended these meetings?

4 A I doubt it.

5 Q David Watkins?

6 A Probably.

7 Q Do you recall what Mr. Watkins's position
8 was during this period?

9 A I thought he was director of
10 administration.

11 Q Would he have been the person responsible
12 for security matters, as far as you know?

13 A Oversight of it, yes, but the
14 Secret Service had the bulk of the responsibility.

15 Q But he would have been the primary
16 political appointee in charge of security matters
17 during this period?

18 A Other than the chief of staff, sure. The
19 line responsibility.

20 Q What was the nature of your relationship
21 with Vincent Foster?

22 A I didn't work with him that much. Cordial,

1 not close.

2 Q Although it's difficult to estimate, what
3 would you estimate would be the frequency of your
4 contact with Mr. Foster on substantive matters?

5 A Very irregular. The only thing -- I
6 remember a little bit on, over the health care task
7 force and a little bit over travel office.

8 Q Can you recall any other matters you would
9 have worked with him on while you were at the White
10 House?

11 A No.

12 Q What do you recall with regard to the
13 travel office matter?

14 A Nothing specific outside of the fact that
15 he was in -- when I was communications director, he
16 was in my office on a day that got a lot of attention
17 because it was misconstrued because of the FBI press
18 guidance on the travel office.

19 Q What do you mean by the "FBI press guidance
20 on the travel office"?

21 A There was an issue over what they were
22 investigating, what they weren't, what the FBI was

14

1 saying, and we wanted to make sure that we didn't say
2 anything that was inaccurate. And he was in my
3 office to go over that statement along with 10 other
4 people.

5 Q Can you recall any other occasions in which
6 he would have been in your office?

7 A No.

8 Q Did you regularly visit -- strike that.

9 Did you visit the counsel's suite in the
10 west wing on occasion?

11 A Sure.

12 Q When I say that, I mean the period between
13 January 20 and Mr. Foster's death.

14 A Yes.

15 Q Do you recall going to Mr. Foster's office?

16 A No specific time, no. I would be surprised
17 if I ever went in there.

18 Q So the times you would have gone to the
19 suite in the west wing would have been to see
20 Mr. Nussbaum?

21 A Mr. Nussbaum.

22 Q Did Mr. Foster have any role on the Clinton

1 presidential campaign?

2 A I probably -- I don't think I ever spoke
3 with him during the campaign.

4 Q Did you have any knowledge as to whether he
5 had any responsibilities, though, or performed any
6 functions?

7 A I don't think he had any formal
8 responsibilities. I know he was a friend of
9 Mrs. Clinton's and former law partner of hers and
10 friend of the family, so I assume they spoke every
11 once in a while. But I don't think he had any formal
12 responsibility.

13 Q Did he have any informal responsibility on
14 the campaign?

15 A I don't think there's any such thing as
16 informal responsibility on a campaign. No.

17 Q Did you have any knowledge -- and let's
18 just say at any time, up until the time of his
19 death -- that Mr. Foster worked on personal legal
20 matters for the President and First Lady?

21 A I know that now, but I don't know -- I've
22 read so much since all of this stuff came out. If he

1 did, I didn't think about it.

2 Q Did you have any knowledge that he was
3 involved in preparing tax returns for the President
4 or First Lady?

5 A Again -- I mean, I may have, but I'd have
6 no memory of that.

7 Q During the campaign, who would have been
8 the person responsible for the preparation of
9 financial disclosure forms for the President -- or
10 Governor Clinton?

11 A I don't know.

12 Q Were you aware that Mr. Foster had any
13 responsibility with regard to what is now known as
14 Whitewater Development Corporation?

15 A No.

16 Q During the campaign, did there come a time
17 at which -- I believe it was The New York Times
18 published a story on Whitewater?

19 A Yeah, but --

20 MR. GIUFFRA: Let's go off the record.
21 (Discussion off the record.)

22 MR. GIUFFRA: Why don't you read the

1 question that was pending.

2 (The reporter read the record as requested.)

3 THE WITNESS: Yes.

4 BY MR. GIUFFRA:

5 Q The campaign ultimately put out a response
6 with regard to that subject matter?

7 A Uh-huh.

8 Q Do you recall the names of the people who
9 worked on the campaign who were involved in preparing
10 the campaign's response with regards to the
11 Whitewater matter when it first occurred during '92?

12 A I worked with Greg Begala, Dee Dee Myers.
13 Obviously asked the President questions. I was on
14 the initial response, and then it was all turned over
15 to Jim Lyons. We handled the initial press
16 inquiries, and the broader matter was turned over to
17 Mr. Lyons.

18 Q Do you know whether Mr. Lyons had a
19 relationship with Mr. Foster?

20 A I wasn't aware of any of that.

21 Q Just to clarify the record, with regard to
22 the questions that we were asking with regard to

18

1 Mr. Foster's responsibilities, we were dealing with
2 the period up to his death.

3 A Right, my knowledge up to his death.
4 Right.

5 Q Just go back to the campaign question. Is
6 there anybody else besides Greg Begala?

7 A Not that I can remember. I just can't
8 remember when Betsy Wright got involved. I don't
9 remember if it was that first story or not.

10 Q How about the remainder of the campaign,
11 who were the people who were --

12 A That's it.

13 Q So she would have gotten involved?

14 A Yeah.

15 Q That's Betsy Wright?

16 A Yes.

17 Q With regard to Mr. Nussbaum, what was the
18 frequency of your contact with him?

19 MR. KRAVITZ: When?

20 MR. GIUFFRA: During the period he was
21 White House counsel.

22 THE WITNESS: Could I take a break? Maybe

1 you can help me here.

2 MR. GIUFFRA: Let's go off the record.

3 (Discussion off the record.)

4 (The reporter read the record as requested.)

5 THE WITNESS: It would depend on the
6 issue. Deal with him when something was essentially
7 reaching public view.

8 BY MR. GIUFFRA:

9 Q To the best of your knowledge, what was the
10 extent of Mr. Nussbaum's contact with the President
11 during the time that Mr. Nussbaum was White House
12 counsel?

13 A I have no specific knowledge. I assume --
14 he's a senior staffer. I assume he spoke to him when
15 the President needed to speak to him.

16 Q Do you know whether the contact was daily,
17 several times a day?

18 A I don't know.

19 Q Do you know the extent of Mr. Nussbaum's
20 contact with the First Lady?

21 A Same answer.

22 Q Now, directing your attention to July 20,

20

1 which is the --

2 A Just so I remember, is that the night of --

3 Q Foster's death.

4 A Foster's death, okay.

5 Q I believe it was a Tuesday. Where were you
6 on the night of July 20th, 1993?

7 A It depends on what time. I was helping
8 prepare the President for his appearance on Larry
9 King.

10 Q And that appearance was from the White
11 House?

12 A Yes.

13 Q When did you learn of Mr. Foster's death?

14 A It was at the beginning of the taping of
15 the show, from what I remember. Bill Burton came in
16 and said some White House staffer had died or been
17 killed or committed suicide, just had died, and he
18 didn't have all the details at first. And then he
19 came back within minutes and said he's pretty sure it
20 was Vince killed himself. I was with Mr. McLarty at
21 the time.

22 Q Was anyone else present?

1 A Not the initial -- not the first time he
2 came through. I mean, there were a lot of people in
3 the vicinity preparing the President.

4 Q Do you recall the names of some of the
5 other people who had been preparing the President for
6 the Larry King Show on July 20, 1993?

7 A Dee Dee Myers, Ricki Seidman, Mark Gearan.
8 I'm sure there were others. Those are the names that
9 stick out.

10 Q Do you recall anything more about what
11 Mr. Burton said when he first notified you of
12 Foster's death?

13 A No.

14 Q Do you recall what Mr. McLarty then did
15 after being notified of Mr. Foster's death?

16 A Well, we had to do a couple of things.
17 First we had to get the facts. I think Mack called
18 the First Lady, and I called Web Hubbell, and then we
19 tried -- we discussed how to tell the President, what
20 to tell the President, what had to be done that
21 night.

22 Q Do you recall where you called Mr. Hubbell?

1 A From the hallway of the residence, first
2 floor, ground floor.

3 Q Do you recall where Mr. Hubbell was when
4 you called him?

5 A I don't know where he was. I just reached
6 him through the operator.

7 Q Through the White House operator or the
8 Justice Department?

9 A I'm not sure.

10 Q What did Mr. Hubbell say to you when you
11 spoke to him?

12 A The only reason I remember the conversation
13 is because I had to repeat several times that Vince
14 killed himself. He just couldn't take it in.

15 Q Do you recall any other phone calls you
16 would have made during that period? This would be
17 immediately after being notified of Mr. Foster's
18 death?

19 A Not immediately. Within -- later on that
20 evening, I called David Dreyer to try to get a
21 statement of condolence drafted for the President.

22 Q Were you present when Mr. McLarty called

1 the First Lady?

2 A We were near each other, but I was talking
3 to Web.

4 Q So you could not hear any part of his
5 conversation?

6 A No.

7 Q And during the time of these phone calls,
8 was the Larry King Show being taped?

9 A Yes.

10 Q And you stayed through the remainder of the
11 show?

12 A Yes.

13 Q And then am I correct that after the show
14 was concluded, you or Mr. McLarty advised the
15 President of Mr. Foster's death?

16 A Yeah, Mack spoke to him privately for a
17 second. Then we went upstairs to the kitchen of the
18 residence. We talked about it for a few minutes, and
19 the President went to Lisa's house.

20 Q That would be Lisa Foster's House?

21 A Uh-huh.

22 Q What did you do next?

1 A Went to Mark Gearan's office, helped finish
2 the drafting of the condolence statement. That was
3 released, and I essentially left.

4 Q Do you recall about the time you left the
5 White House?

6 A My guess, somewhere around 11:00.

7 Q Do you recall who was present at
8 Mr. Gearan's office during this period?

9 A I assume David Dreyer, Mark, Dee Dee. I
10 don't remember anybody else.

11 Q Did you ever go to Mr. McLarty's office on
12 the night of July 20, 1993?

13 A Not that I can remember.

14 Q Did you ever see Mr. Nussbaum on July 20,
15 1993 in the evening?

16 A Not that I can remember.

17 Q Did you ever again speak to Mr. Burton on
18 July 20, 1993?

19 A I don't think so.

20 Q Did you ever see or speak to Sylvia
21 Matthews on July 20, 1993 in the evening?

22 A I don't think so.

1 Q Do you recall seeing Maggie Williams on
2 that evening?

3 A I don't think so. Not that I can remember.

4 Q Do you know whether Mr. McLarty ever said
5 anything about the need to seal Mr. Foster's office
6 on the night of July 20, 1993?

7 A Not to my knowledge. I don't know anything
8 about it.

9 Q Do you have any knowledge with regard to
10 the matter of whether there was any request to seal
11 Mr. Foster's office on the night of his death?

12 A No.

13 Q After you arrived home, did you make any --
14 do you recall any other phone calls you might have
15 made?

16 A No.

17 Q The next morning, do you recall
18 approximately what time you would have arrived?

19 A I don't know. I probably got in around
20 6:30.

21 Q Did you see Mr. Livingstone on the morning
22 of July 21st?

1 A Not that I can remember.

2 Q Was Mr. Livingstone's office in the west
3 wing?

4 A I don't think so.

5 Q Did you speak to Mr. Nussbaum on the
6 morning after Mr. Foster's death?

7 A I'm sure I was in meetings that he was at,
8 like the senior staff meeting, but I don't remember
9 any personal conversation.

10 Q Do you recall attending the senior staff
11 meeting the day after Mr. Foster's death?

12 A I assume I did, but I don't remember it.

13 Q Don't recall any discussion of sealing the
14 office?

15 A No.

16 Q Do you recall attending a briefing on the
17 morning after Mr. Foster's death with Park Police
18 officials in David Watkins's office?

19 A I dropped in on that for a couple of
20 minutes at the top, and I left.

21 Q So you didn't attend the whole meeting?

22 A No.

1 Q Do you recall anything about that meeting?

2 A No. I'm not even sure it started -- I was
3 there just to make sure everybody who was supposed to
4 be there was there and the meeting was going to get
5 started, and I left. I had other things to do.

6 Q It has been reported by other witnesses
7 that you said at this briefing that Mr. Foster's
8 death should be investigated as it would routinely
9 and normally be investigated. Do you recall saying
10 that?

11 A Sounds like something I would say, but I
12 don't remember it specifically.

13 Q Why does it sound like something you would
14 say?

15 A Because that's important.

16 Q But you have no other recollection --

17 A I know I was there at the beginning. As I
18 said, I was there just to make sure things were
19 moving on the right track, and I really did have
20 other things to do.

21 Q Do you recall going to the White House
22 counsel's office at any time on the day after

1 Mr. Foster's death?

2 A No.

3 Q Do you recall any conversations that you
4 had during this time period -- and this would be the
5 21st, 22nd; let's do both days -- with regard to the
6 Park Police's investigation?

7 A No. I mean, it was supposed to be going
8 forward.

9 Q But you don't recall any conversations you
10 might have had with anyone about the Park Police's
11 investigation into Mr. Foster's death?

12 A No.

13 Q You don't recall ever discussing that
14 matter with Mr. Nussbaum?

15 A Again, no personal conversations. I can't
16 swear at a senior staff meeting it wasn't discussed.

17 Q Do you recall any discussions at any senior
18 staff meetings or elsewhere with regard to the manner
19 in which the documents in Mr. Foster's office would
20 be reviewed by either Mr. Nussbaum or Park Police
21 officials?

22 A This is one of those things what I knew

1 then and what I know now. Now I've read so many
2 times in newspaper accounts that Bernie wanted to
3 watch every piece of paper go by, but I can't tell
4 you that I remember talking about it then.

5 Q Do you have any knowledge, other than from
6 newspaper accounts, with regard to whether anyone
7 entered Mr. Foster's office on the night of his
8 death?

9 A Other than newspaper accounts?

10 Q Yes.

11 A No.

12 Q Do you have any knowledge, other than from
13 newspaper accounts, with regard to what happened to
14 the documents that were in Mr. Foster's office
15 following his death?

16 A No.

17 Q Do you have any knowledge as to whether the
18 President ever reviewed any documents that were in
19 Mr. Foster's office at the time of his death?

20 A No.

21 MR. KRAVITZ: You mean other than newspaper
22 accounts?

1 MR. GIUFFRA: Right.

2 THE WITNESS: Other than newspaper
3 accounts. Thank you.

4 BY MR. GIUFFRA:

5 Q Do you recall learning of the discovery of
6 a torn note in Mr. Foster's briefcase?

7 A Vaguely. The reason I remember is because
8 Mack and Gergen were in Chicago with the President.

9 Q And do you recall anything more about the
10 discovery of that note?

11 A No, we just had to figure out what it said,
12 how to release it.

13 Q Did you speak to Mr. Nussbaum about the
14 discovery of that torn-up note?

15 A Again, not directly. I may have been part
16 of a meeting where it was discussed.

17 Q Do you recall any discussion during this
18 time period as to whether the torn-up note was in the
19 briefcase when Mr. Nussbaum first searched the
20 briefcase?

21 A The only discussion I remember about that
22 was the description of it falling out in all these

1 pieces.

2 Q And what discussion do you recall?

3 A That's all I remember hearing about it.

4 Q Do you recall any conversations that you
5 had with Mr. Nussbaum at any time with regard to the
6 handling of the papers in Mr. Foster's office after
7 his death?

8 A Again, nothing outside of the possibility
9 of a larger meeting where it may have been discussed.

10 Q Do you recall discussing anything having to
11 do with the handling of the papers in Mr. Foster's
12 office with the President?

13 A No.

14 Q First Lady?

15 A No.

16 Q Maggie Williams?

17 A No.

18 Q Patsy Thomasson?

19 A No.

20 Q Did you have any role in responding to
21 press inquiries with regard to the handling of the
22 papers in Mr. Foster's office?

1 A I don't think so.

2 Q Do you recall attending any meetings at
3 which that subject came up?

4 A Again, it may have come up in a morning
5 staff meeting; beyond that, no.

6 Q Do you recall reviewing any chronologies
7 that were prepared with regard to the handling of the
8 documents in Mr. Foster's office?

9 A It's conceivable that I did, but I don't
10 remember.

11 MR. GIUFFRA: Let's go off the record.
12 (Discussion off the record.)

13 BY MR. GIUFFRA:

14 Q Let me show you a document that we'll mark
15 as Z490 to 491. This is a document that we received
16 from the White House. It's entitled "report from
17 Craig Livingstone, July 21, 1993."

18 (Stephanopoulos Exhibits Z490 to Z491
19 identified.)

20 BY MR. GIUFFRA:

21 Q Does this document at all refresh --

22 A Never seen it before.

1 Q Do you have any recollection with regard to
2 the statement about following whatever the normal
3 course of an investigation is?

4 A Like I said, my memory of the meeting is
5 that I was going there at the beginning to make sure
6 it was moving on track and left, so it's very
7 possible I said something like that. I just don't
8 remember.

9 MR. GIUFFRA: Let me show you a document
10 we'll mark as Z96 through Z114. This is just a
11 transcript of a press conference that the First Lady
12 gave with regard to Whitewater.

13 (Stephanopoulos Exhibits Z96 through Z114
14 identified.)

15 BY MR. GIUFFRA:

16 Q Do you have any recollection of assisting
17 in the preparation of the First Lady for this press
18 conference?

19 A No. She did it with her staff.

20 Q Would this have been the normal practice?

21 You would not have been involved in press --

22 A Yeah, she does all her own stuff.

1 Q Do you recall discussing with Ms. Myers
2 anything having to do with responding to press
3 inquiries with regard to the handling of the papers
4 following Mr. Foster's death?

5 A No specific discussion.

6 Q Do you have any knowledge with regard to
7 Maggie Williams's public statements with regard to
8 the handling of the documents in Mr. Foster's office?

9 A Not outside of what I read in the papers.

10 Q Have you ever been interviewed by the FBI
11 with regard to the handling of the papers in
12 Mr. Foster's office following his death?

13 A I've had so many interviews --

14 MR. BRAND: I don't know that that's an
15 appropriate question for this forum. You ought to
16 ask the Independent Counsel that. This witness has
17 been enjoined, at least under rule 6E, from talking
18 to anybody outside his counsel about what transpired
19 in the grand jury, and I think that's a question you
20 ought to ask them.

21 MR. GIUFFRA: Let's go off the record for a
22 second.

1 (Discussion off the record.)

2 BY MR. GIUFFRA:

3 Q Other than with regard to communications
4 you may have had with your counsel or with a law
5 enforcement agent or body, have you spoken to anyone
6 with regard to the handling of the papers in
7 Mr. Foster's office?

8 MR. BRAND: Do you include the White House
9 counsel within your --

10 MR. GIUFFRA: We'll exclude the White House
11 counsel's office.

12 THE WITNESS: No.

13 BY MR. GIUFFRA:

14 Q Bearing in mind the matter of inquiry for
15 this phase of the Senate's investigation, do you have
16 any other information that you think the Senate
17 should be aware of?

18 A No.

19 Q Any other information bearing on the
20 subject of the handling of the papers in Foster's
21 office?

22 A No.

1 MR. GIUFFRA: I don't have any further
2 questions.

3 MR. KRAVITZ: Why don't we just take about
4 a five-minute break. I don't think I have anything,
5 but let me think things through for a second.

6 (Discussion off the record.)

7 (Recess.)

8 MR. KRAVITZ: I don't have any questions.

9 MR. BRAND: I understand from the protocol
10 that I'm entitled to ask questions, but I don't have
11 any.

12 MR. GIUFFRA: The only thing I would add is
13 we would ask that you keep what was said here
14 confidential, and we very much appreciate you
15 coming.

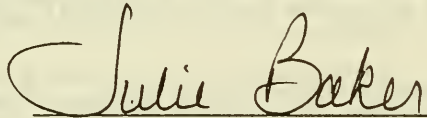
16 THE WITNESS: Thank you.

17 (Whereupon, at 10:17 a.m., the deposition
18 was concluded.)
19
20

21 -----
22 GEORGE R. STEPHANOPOULOS

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

REPORT FROM CRAIG LIVINGSTONE

X 2345

July 21, 1993

I arrived home from the White House approximately 9:00 p.m. on Tuesday, July 20, 1993.

As I was walking through my door my phone was ringing. When I answered it a male identified himself as U.S. Secret Service and asked me to stand by for Inspector Dennis Martin.

Inspector Martin identified himself to me. The Inspector informed me that the Park Police had called to inform them that apparently Vincent Foster had committed suicide on GW Parkway at around 6:00 p.m. that evening.

I had just left the Larry King set with POTUS and was concerned that POTUS might learn about this on live TV. I called White House Operator to page Mark Gearan. Gearan told me that they were advised of the issue. I told Gearan that I was going to Fairfax Hospital to identify the body. Gearan instructed me to do so.

I then called Bill Kennedy who said he would meet me at Fairfax Hospital. I did this because Kennedy is a close friend of the Foster Family and I thought it would help them if he said he saw the body.

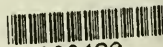
I left my home and proceeded to Fairfax Hospital. I met Bill Kennedy at approximately 9:30 p.m. at the ER of Fairfax Hospital.

Kennedy and I met with a Fairfax Police Officer at the Hospital. I spoke to the White House to let them know Kennedy and I were at the scene.

While the Fairfax Police Officer attempted to secure permission for us to view the body. I called the Hospital switchboard to see if anyone was making any unusual inquiries about patients. They responded no.

During this time period (9:30 - 9:45 p.m.) phone calls were received/exchanged between Kennedy -- Bernard Nussbaum -- Webster Hubbell from my location. These calls were informational and attempted to determine if the Foster family had been notified, what their location was, etc.

At approximately 9:45 p.m. we were escorted to a viewing room by a Senior Nurse. We stopped at a glass partitioner with a curtain behind it which was opened. At this time Kennedy and I confirmed to the Nurse that the body was Vincent Foster. We returned to a consultation room where upon I called Thomas (Mack) McClarty -- I handed the phone to Kennedy who informed McClarty that Vincent Foster was dead. (Approximately 9:55 p.m.)


Z 000490

I suggested to Mark Gearan that before I leave I give the hospital a contact name for inquiries. He said to give Dee Dee Meyers number. I did this and drove Kennedy to Vincent Foster's home.

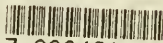
We were at the Foster home until approximately 2:00 a.m. At around 1:30 a.m. several vehicles responded to the address. They "sprayed" the block and left at about 1:45 a.m.

On Wednesday, July 21, 1993, I drove by the house at 6:30 a.m. and stayed until 8:00 a.m. There was no press activity.

At 11:00 a.m. on July 21, 1993, I met with:

Bernard Nussbaum
George Stephanopoulos
Webster Hubbell
David Watkins
Bill Kennedy
Robert Langston, Chief, U.S. Park Police
Robert Hines, Commander, U.S. Park Police
Don Flynn, USSS
Arnie Cole, USSS

At this briefing informal discussion took place as to the nature of the investigation. Nussbaum said that the Attorney General's Office would be contacted to oversee investigation. Stephanopoulos restated to the U.S. Park Police to "follow whatever the normal course of investigation is and the White House would assist as required."


Z 000491

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

April 22, 1994

PRESS CONFERENCE
BY THE FIRST LADY

The State Dining Room

3:37 P.M. EDT

MRS. CLINTON: Well, let me thank all of you for coming. I know this is a busy day. It got busier than I thought it would when we first made this decision early this morning, and I appreciate your gathering.

I have, in the last couple of days, wanted to do this part because I realized that despite my traveling around the country and answering questions, I did not really satisfy a lot of you in having your questions asked and answered. And last week, I think it was Helen said, I can't travel with her, so how can I ask her questions? So, for that reason, we are here and, Helen, you got the first question.

Q Since Whitewater's been in the news so much, I feel it's fair to ask you the same question I put to the President some time ago -- and you are a co-partner. Do you know of any money that could have gone from Madison to the Whitewater project or to any of your husband's political campaigns?

MRS. CLINTON: Absolutely not. I do not.

Q Actually, on the same theme with your commodities profits -- it is difficult for a layman, and probably for a lot of experts, to look at the amount of the investment and the size of the profit. Is there any way you can explain how you --

MRS. CLINTON: Well, I can certainly tell you what happened. And I appreciate your asking me about it because I've tried to follow the accounting in the press about it, and I want to explain as clearly as I can what occurred.

Back in 1978, in October, one of our best friends, Jim Blair -- who had been a friend of my husband's and mine for some time -- talked to me about what he thought was a great investment opportunity. He is someone who has been an investor ever since he was a teenager, with usually very good results. And he had followed closely what had been happening in the cattle market. And I only knew a little bit about that, although living in Arkansas, particularly northwest Arkansas, as I did, I was familiar with a lot of ranchers and people who were in the cattle industry. And when he said, I think there's going to be a great opportunity to make money and explained why, and asked me what I thought we could afford to invest, I told him we could afford to invest \$1 million.

So I opened an account at his very strong recommendation, and proceeded to trade over the next months until July. You know, not all my trades made money; some of them lost money. I talked to Mr. Blair very frequently. In fact, Jim would call me on a regular basis, and I would make a decision whether I would or would not trade, and then the trade would be placed. And he placed it for me. And there was nothing wrong with that; he was on the spot, he was often in the offices of the broker.

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I stopped trading in July of 1979. And I did stop trading in large measure because I could not keep up with it. It takes a lot of nerve to be in the commodities trading, and I just found out I was pregnant. And so, when he called again, I said, you know, I just don't want to do this anymore. And I think he may have even called a few more times saying, it's really still doing well -- trade again. And I didn't, and I'm glad I didn't because he and other friends of mine who were trading ended up losing money.

So it was a good investment offered by somebody who knew a lot, who could provide a lot of good advice. And I was lucky and made the decision to stop when I did.

Q Mrs. Clinton, can you talk about the second account? You had two --

MRS. CLINTON: I'll get there in just a minute --

Q Do you wonder since then if maybe your broker might have, because of your position and your husband's, might have given you some kind of unfavorable -- or a favored advantage?

MRS. CLINTON: There's really no evidence of that. I didn't believe it at the time. As I said, I made and lost money in that commodities account. It was my money; it was at risk. The account was in my name; I got the reports. We've released all of the documents we could find from that period from that account. So, no, I had no reason to believe that. And as Mr. Leo Melamed, the former head of the Chicago Mercantile Exchange, said when he looked at all of my trading records, there isn't any evidence that anybody gave me any favorable treatment. And even Mr. Blair, who ended up losing money, I think would find it very hard to argue that he got any favorable treatment. I just don't think there's any evidence of that.

Q Mrs. Clinton, you say you stopped trading in July of 1979. Could you talk about the second account that was opened? There was a second account with the Stephens Company in which I think you invested \$5,000. And at first the White House claimed you lost money on it, but later you put out a document showing you actually made \$6,000 on it and didn't close it until a few months after Chelsea was born.

MRS. CLINTON: That's right. I'm glad you asked that because I really want to clarify it. I think there's been a lot of confusion. There were two accounts. The first account -- the one that I was just talking about -- was the REFCO account. I traded in that from October '78 to July of '79, when I found out I was pregnant, and I stopped trading. Now, I closed that account for good in October of '79, and I took some of the money that I had made and put it into an account at Stephens. And at that point, I made that discretionary account. My REFCO account was a nondiscretionary account, which meant that I had to approve and give the go-ahead for every trade.

In the discretionary account at Stephens, my broker made most of the decisions, and I think did a good job for me. He diversified the money, he put it into money market and stocks and bonds and \$5,000 into some commodities.

Now, what happened then is, in retrospect as I've been able to reconstruct it now, is that my broker made these decisions he checked with me maybe a couple of times a month, but because it was discretionary, he did not have to get my approval. So money would be moved from one investment to another investment. And during the course of the time between October of '79 and probably May of 1980, he had me in and out of three different commodity accounts.

much smaller numbers than what I had been in charge of doing in my REFCO account.

In February of 1980, my daughter was born -- at the very end of the month. And I remember talking to my broker sometime after that and said, I just want to get out of commodities altogether. I don't ever want to have to worry about it. So he got me out of the positions that I had been in, so that by May, I was no longer doing any kind of commodity trading in the Stephens account. Now, what happened, though, is that he took the money that I now know I made -- I really didn't think I'd made any money in commodities -- and he bought some stock and he did some other things for me.

Now, in the fall of 1980, my husband lost his election, we moved. So by 1981, when I gathered all my documents together to give to my accountant, I had a year-end statement from Stephens which did not report anything about commodities; I had a year-end statement from the Peavey Brokerage Company which reported a loss; and I had no year-end statement from either Clayton or the company called ACLI. So I think what happened is we bundled all of the documents we had -- because I took all of the reports that I had, gave them to the accountant -- and I believe that in the absence of a year-end statement, the accountant and my husband and I missed the fact that we had actually made some money in the ACLI account.

Q You didn't remember the profit?

MRS. CLINTON: No, I did not remember that profit. I did not. And, in fact, as you said, when some people looking at the records for me began looking at it originally, they looked at the records, and they thought I'd had a \$5,000 loss. And they came to me and said, we think you had a loss which you didn't report. And I said, I just don't remember. I thought I basically got out with what I put in. And then they went back and relooked at it again with more accountants and they came up with the gain. So it was hard to find, apparently.

Q With regard to the REFCO account, just how did the procedure go? Did Mr. Blair basically recommend to you the transactions which you either said yes or no to? Or was it based more on knowledge that you had gained, as some of your staff have suggested, from reading the papers or whatever? What happened?

MRS. CLINTON: Well, Brit, it was primarily Jim's suggestions. But I also did try to educate myself. I did try to read some things. He actually gave me a few documents to read -- because he had this theory that because of the economy in the early part of the 1970s, a lot of cattle herds had been liquidated so that there was going to be a big opportunity to make money in the late '70s; and he gave me things to read about that. And I did occasionally read publications like the Journal and others and I tried to educate myself because I took the responsibility seriously. But I relied primarily on his advice because he really spent an enormous amount of time studying the market and talking to many more people than I ever could have -- people who ran feed lots or bought beef for large supermarket chains.

So he would -- I would say, here's what I think is going on; what do you think? Now, I did not make every trade he recommended. And certainly, by July, when I began to get nervous about it, I stopped taking his recommendations because I just couldn't bear the risk anymore.

Q Did it concern you at the time that because of his position with the company that he represented, that there was an ethical question raised by your accepting this level of assistance a financial matter from him?

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MRS. CLINTON: No, it did not. And the reason it didn't is that he and his wife are among our very best friends. My husband preformed their marriage ceremony. I was the "best person" at the wedding. We are very close friends. And I've found it a little bit surprising that anyone would suggest that, because in 1980, right during the time that this was all going on, when my husband ran for reelection, Tyson supported his opponent. So there's really no basis for suggesting it was anything other than what it was, which was a friend who made a suggestion not just to me, but to a number of people, which I think was very fortunate for me.

Q Mrs. Clinton, you've said that there was no preferential treatment in all of this. The records indicated that your account was short of money at various points. Were there margin calls? And did you meet any of those calls? And were you aware at any time that REFCO was coordinating trades to drive prices up or down?

MRS. CLINTON: No, I was not aware of that, Andrea. I was told that after I stopped trading some months later. And I know there were lawsuits filed alleging that. I don't think any of that was ever proved, at least that I'm aware of.

When my position was under margin, I would either close out my position or use the equity that I had. And I think Mr. Melamed said, based on his review of the records, there were a couple of occasions when I was under margin. Nobody ever called and asked me for anything. They just, I guess, took the money that I had in the account and closed out the position. But that was the responsibility of the broker, and from what I know, they were doing so many trades, and there was so much volume going through that, I was a relatively small customer. I mean, it was very big money for me and my family, but it was a very small account. And I don't think they paid any attention to my particular situation.

Q Why do you think they gave you this treatment with you being such a small customer? Don't you think that was preferential treatment based upon who you were and who your husband was?

MRS. CLINTON: No, I really don't believe that. I don't think there's any evidence of that. You know, from what I know about commodity trading, and what I know about the cattle market during that period of time, they were just buying and selling on a huge basis, day in and day out. And I think that they may have not gotten around to the paperwork; they may have not thought it was worth it; they may have seen that I was a regular customer and that I covered my losses; that there was never an occasion when they really had to be concerned about it. I can't read their minds or speculate, but I have absolutely no reason to believe that I got any favorable treatment.

And the fact that I closed the account out and took my money, whereas the people whom I knew were much bigger traders, like Jim Blair and others, they lost money -- and why would Jim Blair try to help me get favorable treatment that he couldn't get for himself? I mean, it doesn't make any sense to me at all.

Q Mrs. Clinton, what do you think has made all of this so controversial is the shifting accounts of what happened because initially the White House explained that you were consulted by Blair and many others and reading the Wall Street Journal, and then later, had to correct that, and we found out that Mr. Blair was, in fact, most often placing your trades for you -- phoning the trader in. Why was the account -- why did the account have to be corrected? Why was it not explained accurately the first time?

MRS. CLINTON: Well, Linda, I think it's because -- we're trying to reconstruct events of 15, 16, 17 years ago. There

- 5 -

are a lot of people who are trying to help, but until relatively recently, there wasn't any one person in charge of trying to get everything together and get the information as accurate as possible. I think the people in the White House did the best job they could. I think that we did the best job we could trying to remember things, and oftentimes having to search to see whether we had any records.

I mean, I don't know how many of you keep records from 1978 or '79, but we went through a lot of effort to try to see whether we had anything so we could answer questions and then make things available. Sometimes we'd find part of something; sometimes we'd then find the rest of it.

So I appreciate and understand the concern about why we would have to add information or go back and say, well, this needs to be corrected. But the fundamental facts have not changed. The fundamental facts are, as I have said, I opened an account with my money; I made the trades; it was nondiscretionary; I took the risk; I was the one who made the decision to stop trading. And I did rely on Jim Blair. I used some other advice as well, but he was my principal advisor in this.

Q But that wasn't a question of documents, that particular fact -- the fact that he was really riding the trading for you. I guess I wanted to reask that question again. Why -- that would be something you would remember or not remember without documentary support. So why was that fact not made clear? And were you essentially riding on his coattails when you traded?

MRS. CLINTON: No, I wasn't. I was riding on the money I invested. I don't know how any of you make investment decisions, but I like to listen to people I know and trust who I think know what they're doing. And he was somebody who I very much thought knew what he was doing and was more than willing to share his information not only with me, but with many people -- members of his family and other of his friends. And it was, for all of us, a decision to put ourselves basically at the mercy of the market. And as Jim Blair found out, he wasn't always right -- he lost a lot of money. And I was lucky I didn't. But that was my decision.

Q Mrs. Clinton, a number of your old friends in Little Rock -- Warren Stephens I guess is an old friend; Kurt Bradberry, Bill Bowen, people like that -- had a meeting on March 31st and they decided that, really, Arkansas is taking a beating; portrayed, in the words of one of them, as a "moral and ethical backwater," basically because people here are saying, it was done that way in Arkansas. How do you feel about what's happening down there, and what's happening to those people who feel they're being hurt by events out of their control and they feel that they're not really being -- the state is not really being defended by you and your husband? I wonder if you'd address that.

MRS. CLINTON: Well, I feel very bad about it because think Arkansas is a wonderful place, and filled with some of the best people I've ever been privileged to know or work with. And I do think that many of the charges have been very unfair and have really lacked any historic or realistic context. I don't think it's necessary to point fingers at any one person in the Union to say that in every place there are people who have problems, and there are people who cause problems. And I think that the state of Arkansas is a place that has so much to be proud of. So I hope that we can get back to a more realistic assessment of what goes on there.

Q May I follow that?

MRS. CLINTON: Sure.

- 6 -

Q They've said -- specifically Bradberry and Mr. Stephens have said that to a certain extent, they feel you brought this on yourself -- the two of you -- because of campaign statements about "the decade of greed" and just things that they feel, in their words, "make it look like hypocrisy;" that you were in the go-go trading, you were trying -- as you said -- an opportunity to make money just as they were. And they felt like they had been condemned by you -- that people like that had been condemned by you during the campaign. And that now you were being shown to be doing the things you spoke against.

MRS. CLINTON: Well, Kurt and Ward have never said that to me, so I'll have to take your word for it. But I do think you raised an important question that I would like to talk about a little bit.

I was raised to believe that every person had an obligation to take care of themselves and their family. And that meant earning an income and saving and investing. I was raised by a father who had me reading the stock tables when I was a little girl, and started doing that with my daughter when she was a little girl. I don't think you'll ever find anything that my husband or I said that in any way condemns the importance of making good investments and savings; or that in any way undermines what is the heart and soul of the American economy, which is risk-taking and investing in the future.

What I think we were saying is that, like anything else, that can be taken to excess. When companies are leveraged into debt, when loans are not repaid, when pension funds are raided -- all of the things that marked the excess of the 1980s are things that we spoke out against. I think it's a pretty long stretch to say that the decisions that we made to try to create some financial security for our family and make some investments come anywhere near there.

I also think that my husband and I made different choices than to concentrate on making money during the 1980s. We obviously wanted enough financial security to send our daughter to college, and put money away for our old age, and help our parents when we could. But we were primarily interested in, as in his case, in trying to provide opportunities for people in Arkansas and make a difference in their lives. And what I tried to do, both to help him and to work on behalf of children or education reform, was what was really important to us. So I think that is something that needs to be put again into a proper perspective.

Q In USA Today, somewhat in the same vein, you were reported to have opposed a special prosecutor, at least in the beginning, and some of the release of tax documents on the basis of privacy -- that you felt you had a right to privacy. Do you think that that helped to create any impression that you were trying to hide something?

MRS. CLINTON: Yes, I do. And I think that is probably one of the things that I regret most, and one of the reasons why I wanted to do this -- because I've had to really do a lot of thinking the last couple of months. You know, again, I was raised to really believe that what was important was that you thought about yourself and how you measured up to the standards you set for yourself. And I think if my father or mother said anything to me more than a million times, it was, don't listen to what other people say, don't be guided by other people's opinions. You know, you have to live with yourself.

And I think that's good advice. I mean, I'm glad I was it as a girl growing up, and I've passed it on to my daughter. I do think that that advice and my belief in it, combined with my sense of privacy, because I do feel like I've always been a fairly private

So, you're right, I've always believed in a zone of privacy. And I told a friend the other day that I feel after resisting for a long time I've been rezoned. (Laughter.) And I now have a much better appreciation of what's expected, and not only what I have done, because I am extremely comfortable and confident about everything that I have done, but about my ability to communicate that clearly and to give the information that you all need.

MS. CLAYTON: 1 den's 2nd.

- 8 -

Q My question -- I'd like to follow up, too -- the first one has to do with Susan McDougal. She said that she brought the documents of Whitewater over to you at the Governor's Mansion. Did you receive all the documents? And, if so, what became of them?

MRS. CLINTON: I don't believe that we received all the documents in that way. Over the past several years, we have made a very deliberate effort to try to obtain documents, and every document that we have obtained has been turned over to special counsel, no matter where it came from.

Q And my follow-up has to do with the death of Mr. Foster, the way his office was sealed, and people who were in it. There's been a lot of criticism of the papers in Mr. Foster's office that some may have been removed.

MRS. CLINTON: Well, I know there's been a lot of concern and criticism about that. I cannot speak to that in any detail, but I know that the special counsel is looking into the circumstances surrounding Mr. Foster's death. And I assume he will issue a report about that, which I hope will put all these matters to rest once and for all.

Q You said just now that you decided that \$1,000 was as much as you could risk. Can you tell us what your understanding was of how much you could be at risk with the little amount of money that you and your family had then? We were told earlier that \$1,000 was what you were asked to put in. And, second of all, can you give us some explanation -- given that a cattle contract at the time, just one contract, was \$1,200 -- for the mystery of \$5,300 that was made really in the course of one day, or at least a few days, in the first trade?

MRS. CLINTON: No, I can't. I do not remember any of those details. I've given you every record that I have about that.

The \$1,000 was what I wanted to start with. And it was what I thought was a good beginning, a good investment for me. And once I had made the initial return that I did, I reinvested that. This was a roller coaster. And what I believed was that I was getting very good information and that I would end up making money. But there were a couple of days when I lost money. And I knew that would be responsible for any losses that I suffered. But I did reinvest and I covered the losses by closing positions. And then eventually stopped trading.

Q When you first started with the \$1,000, did you believe you were putting at risk more than \$1,000?

MRS. CLINTON: I believed that was certainly possible yes.

Q Then why take such a risky investment?

MRS. CLINTON: Because I didn't think it was that big risk because I thought that Jim and the people he was talking with knew what they were doing. And I read a letter to the editor that somebody sent me in one of our newspapers, which talked about a woman who invested \$1,000 during the same time and made \$750,000. Well, she had a stronger stomach than I did; I couldn't do that.

Q Can I ask you one more question about the \$1,000 which is why the White House is reluctant to provide that figure the news of your commodities trading first came out?

MRS. CLINTON: Because we didn't have the records at hand yet and I didn't want somebody saying what I invested until.

could actually get the records; because I thought that somewhere, buried in some box, I had some records left. I also thought, perhaps, I had my 1978 checks left; which, apparently, I do not have. That's why.

Q Mrs. Clinton, the records you've released to us already showed that you withdrew a large amount of money -- I think like \$15,000 -- from the REFCO account at one point and used -- on the same day made a \$10,000 interest payment on the Whitewater investment, which would have reduced your tax liability. Was that the reason that was done?

MRS. CLINTON: I don't have any memory of that, Gwen. I'm not saying it was; I just don't have any memory. There would have been nothing wrong with it -- it was my money -- but I don't have any memory of that.

Q I'm not saying there's anything wrong with it, but your intention in making this investment was not to offset some of the liability for the Whitewater real estate investment?

MRS. CLINTON: No, I mean, we went into Whitewater to make money, not to lose it. The embarrassing thing to me is that we ended up losing money and it keeps being beaten like the deadeast horse there is, over and over again.

But in '78, '79 and '80, we were still hopeful that we were going to make money on our investment in North Arkansas. And the payments we were making, which were to service the loans primarily, we knew we would have to do as part of our obligations under the joint and individual liability we had for the mortgage.

But when the 1980s began, and real estate just took such a nosedive in Arkansas, I thought then -- and I think the President did, too -- that it was going to be very hard. But we had to hang on because we couldn't get off the mortgage. We had signed -- all four of us were individually responsible. If all the others had had some terrible accident, the one remaining would have been absolutely responsible for the entire debt.

And so it was a situation we got into with the belief that it would be a good investment and one that was, frankly, for us a passive investment; because up until then, if you had a little retirement community or retirement land in north Arkansas, people from the Midwest and South would buy the lots as fast as they could get them. And we didn't have anything to do with the operation or management of it; we just basically thought that eventually the payments by the owners of the lots would begin to pay us back and make a profit. And that never happened.

Q The Whitewater Development was set up, as you said, as a 50-50 partnership between the Clintons and the McDougals, meaning that you were liable for 50 percent of the losses or --

MRS. CLINTON: No --

Q -- 50 percent of the gains. And yet, by your accounting, you lost half or even more -- what the McDougals lost. This is according to the Lyons report. Doesn't that discrepancy represent some sort of gift or gratuity?

MRS. CLINTON: No. And let me say that, yes, the ownership of the corporation was 50-50. The liability on the underlying debt was 100 percent for each one of us. I mean, there was no gift in that. When my husband and I signed that mortgage, when we resigned guarantees, we assumed the whole responsibility. -- mean, if Jim had gone into bankruptcy early on, if Susan had left

would not have only 50 percent of the obligation, we would have 100 percent of the obligation.

Q But why was it that the McDougals lost so much more money than you did? I don't understand that.

MRS. CLINTON: I can't answer that. We gave whatever money we were requested to give by Jim McDougal. He was the one who would say, here's what you owe on interest; here's what your contribution should be. We did whatever he asked us. We saw no records. We saw no documents. He was someone that my husband had known a very long time. He was someone who had been in real estate business with many people we knew, including Senator Fulbright. And we just assumed that whatever he needed he would ask for. And we didn't have any information to the contrary.

Q -- given that you were jointly in separately liable for all the debt and that you and your husband are both lawyers, that you would be so passive about a fairly substantial investment.

MRS. CLINTON: We were not real estate developers, and Jim had a track record. And I wasn't a cattle expert. I trusted Jim Blair, and it worked out for me. And I wasn't a real estate expert, and we lost money. Those things happen.

Q Just to get back to Linda's earlier question, one of the things that has been driving this is either the lack of explanations or the shifting explanations. And in terms of the way that your commodities trading was first described -- that you did the trades, you relied on some advice from Mr. Blair -- later it was revealed that Mr. Blair placed most of the trades, if not all of them. Can you explain what happened? Did you have a new recollection?

MRS. CLINTON: No.

Q Why the shift?

MRS. CLINTON: Well, if you just listen to what you said -- I did the trades. They were my trades. I was responsible for them. But I did them on the advice of Jim Blair, and very often he placed them for me. I'm not in any way excusing any confusion that we have created. I think we have created it because I don't think that we gave enough time or focused enough. I've been traveling, and I'm more committed to health care than anything else I do. I probably did not spend enough time, get as precise.

Different people heard different things that I said, or by the time it got passed to the third or fourth person, or one member of the press would call somebody in the White House, but somebody else would call another person -- so I think that the confusion was our responsibility. We did not give you a focused place to come, and we did not spend the time necessary.

There's not really a contradiction in what you said and what I said. But I can understand how somebody might assume that.

Q Now that we're getting to these confusions, I'll ask you about one other thing that I've had problems with. During the campaign, I think it was right after the primary debate between Jerry Brown and your husband, you made a statement in, I think, a Chicago restaurant that you never did any regulatory work for Madison Guarantee. When the letter went to Beverly Bassett Shafer (phonetic) about perhaps the legality of offering preferred stock, your name was at the bottom at that letter.

MRS. CLINTON: Right.

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Q Could you explain that?

MRS. CLINTON: Yes, I'm glad you asked that because that's another thing that I feel has gotten quite confused in the telling. And let me just try to describe what happened there.

When, in 1933, I believe, maybe '86, there was an effort made on the part of various financial institutions around the country to increase their capital net worth. They began looking for ways to do that. There was a very bright, young associate in our law firm who had a relationship with one of the officers at Madison, a young man whom he had known. They began talking. And if you'll remember what happened when the S&Ls were deregulated, many states were left wholly unprepared. They did not have a regulatory system in place; they didn't even really have good laws. And all of a sudden, there was no federal regulation to speak of, and so people were asking state governments whether things could be done.

Those two young men thought that it would be legal under Arkansas law for a savings & loan to issue preferred stock. But there was absolutely no law on that, and so they couldn't be sure. But they decided that what they wanted to do was to ask the person who regulated savings & loans whether it was legal. Not if Madison could do it, that was the second step. The first step is, could you even do it in Arkansas whether you were A, B or C, not just Madison.

When they talked about doing that, the young attorney I question needed a partner to serve as his backstop, and that was one of the rules we had in our firm. He knew that I knew Jim McDougal. He also knew that Jim had been a client of our firm in the past. This was not a new representation. So he came to me and asked me if I would talk with Jim to whether or not Jim would let the lawyer and the officer go forward on this project. I did that, and I arranged that the firm would be paid a \$2,000 a month retainer. And that was ordinary and customary. That would be billed against -- unlike retainers of some really big law firms that if you pay the retainer they keep it no matter they do any work for you, this was really an advance against billing.

That was arranged. The young attorney, the young bank officer, did all the work. And the letter was sent, but because I was what you call the billing attorney -- in other words, I had to send the bill to get the payment made -- my name was put on the bottom of the letter. It was not an area that I practiced in; it was not an area that I really know anything to speak of about.

At that point, the regulatory authorities, namely Beverly Bassett Shafer (phonetic), answered the legal question. As the legal question was, yes, it is permissible under Arkansas law to issue this preferred stock. Then the question moved on to the second phase, in which I had no involvement that I have any memory of or anyone that I've talked with -- that was trying to determine whether Madison could go forward. And I think that the securities commissioner acted absolutely appropriately. She answered the legal question -- yes, it is legal to do this. But as to Madison, she laid out conditions that had to be met -- for Madison to do it -- and Madison could never meet those conditions, and so they never issued preferred stock. So the legal question was answered by Madison, but no benefit at all from the answer of that legal question.

Q Can you clarify for us what documents were removed from Vince Foster's office after he died? And why they were there the first place?

MRS. CLINTON: Mike, I can tell you what I know, which is that I did not know that Vince had any of the documents relating to our personal business in his office until after his death. What I believe he was doing with them was serving as a coordinator among

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private lawyers and accountants and certain government officials, like the Office of Government Ethics, with respect primarily to our blind trust: because there were all these questions that had to be answered, and he was kind of the coordinator. The private lawyers would talk to him, and the Office of Government Ethics people would talk to him. I think that's why he had any documents of a personal nature in his office at the time of his death.

Q And to follow, why did your Chief of Staff, Maggie Williams, why was she among those who removed these documents from his office --

MRS. CLINTON: I don't think that she did remove any documents. I think that what happened is that after Mr. Nussbaum reviewed the documents, and after he did so, as I recall -- I was not here, I was in Arkansas, but I believe that that was done in the presence of officials from the Park Police and maybe some other agencies. Then Mr. Nussbaum distributed the files according to whom he thought should have them. There were files related to ongoing work in the counsel's office that needed to be passed on to other lawyers. There were personal files of Vince's that needed to go to his family. And there were these personal files of ours that went to our lawyer.

Q I'm wondering -- another question about this rezoning of your private and public lives -- I'm wondering what kind of a toll, if any, this has taken on your and the President's personal and political lives. And do you ever look in the mirror and wish that you just never got into this?

MRS. CLINTON: No, never, never. Some days are better than other days. I think what has helped me in the last couple of weeks, aside from some good friends who have talked to me and helped me get rezoned, if you will, is my belief that this is really a result of our inexperience in Washington, if you will; that I really did not fully understand everything that I wish now I had known. And it's a learning experience -- sometimes a difficult one, but I think one that both the President are anxious to do because we think that the reason he was elected was to deal with the big issues that we want the country to deal with.

And so it is a little disappointing if we in any way contribute to a diversion from that. And that's something that I don't want to have happen in the future, and I'm certainly going to try to be more sensitive to what you all need and what we need to give you, and do it in a more efficient and effective way the first time. Because, as I said earlier, I feel very confident about how this will all turn out. This is not a long-term problem or issue in any way, but I don't want anybody to have the wrong impressions of either of us. And I don't want anything to interfere with doing what the people of this country need done.

Q -- spoken -- the politics of personal destruction. Who do you believe are the main perpetrators of that?

MRS. CLINTON: I don't want to get into that. I don't think that that bears any real useful discussion. I think that what's important is for us, not just the President, but the entire administration, to keep focused on what really will stand the test of history, and what we really are trying to do for the country. And I can't really help it if some people get up every day wanting to destroy instead of build, or wanting to undermine. That's something that I try not to think about or dwell on and try to do what I'm expected to do, which for me is working on health care.

Q (Inaudible.)

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MRS. CLINTON: How does my husband ever make these choices? These are hard choices.

Q When was your last conversation with Vince Foster? And what was your understanding of the state of his mind?

MRS. CLINTON: I've thought about that so many times. I don't think I had any conversation with him for at least three weeks before he died, because we left for Tokyo somewhere around the 4th of July, is my best memory. And for about a week before that, I was very preoccupied with getting ready for the trip and doing the things you have to do. So I don't have any memory of having talked to Vince, and I never talked to him during the time that I was gone.

And, like every one of our friends, we've relived everything that happened or didn't happen -- the people who talked to him, the people who spent time with him, they question whether they said the right thing or whether they could have done something else. The fact that I didn't talk to him makes me wonder whether if I had called him, I could have picked up a clue. I just don't have any way of knowing.

Q Supposedly, he had been in depression -- or so we're told -- for a considerable period of time. Were you ever aware of that? Did you have any clue of what was going on?

MRS. CLINTON: No, and neither did people who spent the weekend with him, or saw him in the office that day. One of the things that I've spent a lot of time doing in the last months is trying to educate myself about depression. And my good friend, Tipper Gore, has been a great help on that, as have the people she's worked with on mental health issues. And I just hope that we get over the stigma that is still often attached to people admitting they need help or that they can't understand what's happening to them. I have no doubt now, in retrospect, and many of my friends now can reconstruct conversations or things they saw in Vince in those last weeks, but they didn't know, they didn't understand. And he didn't either feel comfortable or know himself.

So maybe out of all of this tragedy and the aftermath, all of the speculation -- maybe once we put to rest once and for all the fact that he committed suicide and that it was a tragic loss of one of the best people we've ever known, maybe it can do something to help other people understand what depression can do to you.

Q What was your personal reaction when you learned that Jay Stephens would be representing the RTC in a case against Madison?

MRS. CLINTON: My personal reaction?

Q How did you feel about the fairness of that decision by the RTC to hire him?

MRS. CLINTON: Well, I didn't understand it. But I don't know Mr. Stephens, and I assume he will be a very fair and judicious lawyer. I guess that's what I would expect.

Q You're not concerned about his being a Republican appointee and a U.S. Attorney appointed by President Bush?

MRS. CLINTON: Not if he abides by the code of professional ethics and does his job professionally, I'm not -- as you all keep an eye on him. (Laughter.)

Q Do you think, with the benefit of hindsight, that it was improper for you and your law firm to represent the federal government as a family friend, Dan Lissiter (phonetic), and

against accountants for Madison S&L without fully disclosing that you had been business partners with Mr. MacDougal?

MRS. CLINTON: Well, I don't know what was disclosed and what wasn't. Those were not my cases. Those were cases that came to the firm to other lawyers. I've been told that things were disclosed quite extensively. And certainly, in Arkansas, most things are known; and the relationship with Mr. MacDougal, the fact that Mr. Lassiter (phonetic) made campaign contributions to my husband, was certainly well-known.

In both of those instances, I don't think I had anything to do at all with the representation against Madison on behalf of the federal government -- at least I have absolutely no memory of having done anything on that case.

With respect to the Lassiter (phonetic) case, I think out of that entire case, I worked two hours as a favor to one of the lawyers who was out of town who asked me to review a pleading. And I have specifically inquired whether there was any ethical conflict with respect to that, and have been assured there was not. He was not a client that we had any obligation to. Thousands and thousands of people contributed to my husband -- that is not considered disqualification -- we were not personal friends or social friends. So I don't see any basis for saying that my work for him or against him, as limited as it was, amounted to any kind of conflict.

Q The real stumbling -- was four to six weeks ago; and Whitewater has subsided off the front page in the past couple of weeks. How today? What's changed in the past couple of days that has made you want to come out here?

MRS. CLINTON: Nothing changed, really, except, I said, Helen spoke, so I heard that. But I just -- maybe I'm slow in kind of picking up subtle and not-so-subtle messages. But for me it was an evolutionary process. I really did -- and I see now how mistaken I was -- but I really did believe that every time I went anywhere in the country, I would have press availabilities. I would always answer the press's questions. Sometimes they'd have to wait -- Linc had to wait a long time when I finished doing local interviews and radio interviews in St. Louis; and some of the others of you have been in barns with me and other places like that; you sometimes have to wait. But I always said, are there any questions from the press? And sometimes I'd be asked Whitewater questions, sometimes not. Every time I did satellite feeds to local TV stations, I'd answer the questions.

So I really was under the misimpression that if I answered them in Rochester or I answered them in St. Louis or somewhere else, that should be enough. And I just didn't understand enough about being accessible to all of you or being accessible in Washington. And so I came to that realization, and that's why I'm here.

Q It's not just the press that has questions -- sometimes American citizens who talk to your husband at town meeting will. And one young woman in Charlotte asked him a question I'd like to pose to you. She said that in the coming days about the First Lady's cattle future earnings and all these Whitewater allegations, many of us Americans are having a hard time with your credibility. How can you earn our trust back? Is there a fundamental distrust of the Clintons in America?

MRS. CLINTON: Well, I hope not. That would be something that I would regret very much. I do think that we are transition figures, if you will. We don't fit easily into a lot of preexisting categories. And let me speak just about myself. I started working --

summers when I was 13. I always worked -- I worked through college; I worked through law school. That's what I did. And after I married, I continued to work. And after my daughter was born, with the exception of the four months I took off for maternity leave, I worked.

Now, I took time off from work to do volunteer work -- like I took a long time off from my law firm work to work on education reform; or I would take time off to work on my husband's campaigns; or I would be in Washington on the Children's Defense Fund. I would certainly take a lot of time, but I was fundamentally working. And I think that having been independent, having made decisions, it's a little difficult for us as a country maybe to make the transition of having a woman like many of the women in this room sitting in this house.

So I think that the standards or to some extent, the expectations or the demands have changed. And I'm trying to find my way through it and trying to figure out how best to be true to myself, and how to fulfill my responsibilities to my husband and my daughter and the country. So I do think that there is some of that.

And then, additionally, as I have said earlier, I think that my fundamental belief in privacy and my feeling that we were being asked things and demands were being placed on us that had never been demanded of prior inhabitants of this house -- unprecedented, in Arthur Schlesinger's words -- didn't make sense to me. I couldn't quite figure it out. And I resisted that. And I think I resisted in ways that may have raised more questions than they answered. And I just don't think that was a very useful road for me to go down. And I'm trying now to better understand how to fit my personal needs and my own personal beliefs, and what I want to do with this role for the country, and the contribution I want to make into a broader context so that I can be as forthcoming and accessible as you need to be.

Q On the subject of health care reform, two of the most controversial elements of the White House plan is the employer mandate and the mandatory health alliances. Do those two elements absolutely have to be in a final package in order for the President to sign it?

MRS. CLINTON: The President has made clear for many months that the bottom line is guaranteed insurance coverage for every American -- sometimes called universal coverage. And that really is the bottom line. Now, there isn't any way that we can think of to get there without either raising taxes or having some combination of employer and employee contribution. And we favor the employer-employee contribution. We think that is fairer, it is more familiar to Americans. It is how they now -- we now -- get our insurance. So we believe that the employer-employee responsibility is the right way to go.

Now, if the Congress, as it is now doing, is looking alternatives, comes up with another way to do it that they believe will work and can get a majority, we're certainly going to look at that.

And the reason behind the alliances is to pool purchasing power among all of us -- small businesspeople and families, farmers, everybody -- so that we can get the lowest possible cost for insurance. But it is also to ensure that everybody gets the same affordable health care -- it's what's called community rating. And we want to be sure that we can enforce community rating.

Again, if the Congress has a different way of doing we are going to be open and responsive to that. But those are the

functions we want to perform -- financing universal coverage fairly and affordably and making sure that community rating is in place.

Q -- suggested a broad-based tax as one means of funding health care reform beyond just the employer contribution alone. What would the White House view be of that?

MRS. CLINTON: We're not going to comment on the congressional process while it's going on. We're encouraging every committee to be as careful and innovative as they can be to come up with solutions to the health care crisis. So we want the Congress to work.

Q Federal regulators have noted that in the mid-1980s, when Whitewater wasn't generating much in the way of income, the mortgage -- and you folks weren't putting too much money in -- the mortgage still was paid. And the question was raised in a memo from one regulator to her boss, shouldn't they have wondered, shouldn't they have known? Can you take us through your thought processes or contacts with the MacDougals of Whitewater during that period of time?

MRS. CLINTON: I really don't have anything to add specifically to that, because I'm not sure exactly what you're referring to. As far as I know, Madison always made it's required regulatory reports. And as far as I know, we always put in whatever money we were requested to put in.

One of the reasons why I'm now glad we have a special counsel is that I think we will, once and for all, whenever he issues his report, know exactly what everybody did. And I can't speak for anybody else besides my husband and me.

Q Do you expect to give testimony to Congress or to the grand jury or anything on your activities in Whitewater?

MRS. CLINTON: I don't know, but we will fully cooperate as appropriate with whatever we're requested to do.

Q One of the things that Congress will be looking at when it begins the hearing, and one of the first reports expected out of the special prosecutor, is the possibility of any evidence leading toward obstruction of justice. Do you have -- can you tell us what you're Chief of Staff, Margaret Williams, and your Press Secretary, Lisa Caputo, told you back in the fall? And what you told them about the meetings with federal regulators?

MRS. CLINTON: Nothing. And I don't know what their testimony is, so I can't comment on that.

Q Is there any reason for any -- is there evidence, whatsoever, to lead anyone to suspect there's any obstruction of justice involved, or that the White House said anything that would lead the people to call off their investigation or to think about it?

MRS. CLINTON: Not that I'm aware of, no.

Q Mrs. Clinton, can you tell me how you feel about stories about shredding of Whitewater documents down in Arkansas?

MRS. CLINTON: Nothing.

Q Particularly at the gubernatorial mansion?

MRS. CLINTON: Oh, that didn't happen. And I know nothing about any other such stories.

Q You know nothing about documents relating to Whitewater ever shredded anywhere that you know about or authorized or didn't authorize?

MRS. CLINTON: Absolutely not.

Q Mrs. Clinton, following up on the RTC question, the memorandum reported in The New York Times from the investigator in Kansas City, says that Mr. McDougal kited checks and that the funds benefitted Whitewater partners who knew that Whitewater was not cash flowing and that notes for mortgages still were being paid.

Congressman Leach still says that he's convinced, he has no doubt whatsoever, that dollars were diverted from Madison into Whitewater and used to pay the personal loans of the then-Governor, of Mr. Clinton.

Are you convinced that no monies from Mr. McDougal or any of his related companies paid any obligations of yours or your husband's?

MRS. CLINTON: I know of nothing to support that. And I think we should wait and see what all the facts are because, you know, I just want to reiterate that we didn't even see any documents until late in the 1980s -- probably late '88 or '89. And so, I just don't have any way of telling you what went on from '78 to '88 or '89.

Now, I think we ought to wait until somebody who is a credible fact-finder, like the special counsel, look at everything and tells all of us at the same time what happened when, because we don't have any independent information to provide.

Q If I could just follow up -- the suggestion in the RTC memorandum is that the investors, presumably including you and your husband, knew or should have known that Whitewater was not cash flowing and that notes that should have been paid, whether Mr. McDougal asked you to pay them or not.

MRS. CLINTON: Well, shoulda, coulda, woulda -- we didn't. And the only thing I can say to that is when I was asked in late '88 or early '89 by the realtor who handled the sales in north Arkansas to help him, because neither Jim nor Susan McDougal were available any longer, we tried as best we could to do things like pay the taxes. And when owners of lots didn't fulfill their obligations to try to resell the property -- things that were largely administrative at that point in time. And the fact is that by 1992, the loan was paid off. So I really don't know what that means.

Q Given what you been through, do you have any greater appreciation of what Richard Nixon might have been going through back in '74? (Laughter.) And what are your thoughts about him? How do you think history will judge him?

MRS. CLINTON: Well, I don't know that it's time to start talking like that yet. I think that -- what I think we ought to be doing is praying for President Nixon. And from my perspective, you know, it was a year ago April that my father died at the age of 81. And so, you know, I'm just mostly thinking about his daughters right now.

Q Mrs. Clinton, you have said that when you were at the Rose Law Firm, you didn't share in any of the profits that the firm earned from its representation of state agencies. When did you begin that practice? And did that also include any profits from the firm's facilitating the sale of bonds with the Arkansas Development and Finance Authority?

MRS. CLINTON: I don't remember the exact year, but I made the decision not to share in the profits around the time I became a partner from any representation of state agencies -- anything that could be considered tax money.

For a couple of years, I did share in the benefits from bond underwriting. And then I decided I shouldn't even do that, so I paid the firm back. And from that point in time I did not share in either fees from state agencies or fees generated by any kind of bond underwriting at all.

Q And did you have any part of the \$2,000 a month retainer? Did you share in that, in any of that?

MRS. CLINTON: You know, I might have to a very minimal amount for whatever little bit I did on that. But at the end of about a year, I believe, we were no longer representing Madison because, as I explained, they were not going to get to issue preferred stock. They could not do it because of the conditions that Beverly Bassett Shafer (phonetic) had imposed.

So, in fact, we returned money to Madison. I remember writing and signing the letter to Jim McDougal saying we have fulfilled the work we have done for you; we are still holding some of your retainer; there doesn't appear to be any continuing work to be billed against it. So I sent him a check back.

Q Mrs. Clinton, what do you account for the decline in the support of the Clinton health plan? Do you think that the suspicions and questions which have come out of these matters has spilled over on that and affected people's ideas about just how honestly and efficiently government can deal with life or death?

MRS. CLINTON: Mary, I think that's a real important question. I do believe that some of the opponents of health care have certainly tried to use Whitewater as a proxy for their opposition to health care. I think that in the last several days, some of the leading opponents of health care have even said things which seem to suggest that.

I find that very regrettable. I mean, if someone wants to argue about the future of health care in our country, I think the debate ought to be about health care. And I have absolutely no problem with someone saying, I don't like alliances, or I think we ought to have a different benefits package. That's what I believe democratic debate ought to be about. But I do think that some have tried to use this to undermine support for health care.

On the other hand, there has been continuing concern about the health care plan, if you go back and look at the very first time it was introduced back in the fall, because this is big issue; and I think people want to be sure we get it right. But every time you ask the specific questions about what is it people want, I think you can get a pretty good idea of where they want us to go. I hear people do want health security, and they do want guaranteed benefit.

And the big majority of Americans think the right way to go is through the workplace, with employer-based coverage. And I think people want Medicare preserved and improved with prescription drugs and long-term care. And they certainly want to outlaw the insurance practices that discriminate against people with preexisting conditions and impose lifetime limits. And they want to preserve choice of doctor and choice of health plan.

So if you take the elements of the President's plan -- if you look at the polling data that I have, you sometimes get contradictory results where, if you say to people, do you support President's plan, they think about the last ad they've seen; or if

they've gotten one of these incredible direct mail letters that the sky is falling. It's really just stuff that's been recycled from the fight against Medicare, just new names and new addresses. But when you get to the specifics, there are majorities of Americans for most of the specifics. And I think that's what the Congress is sorting out right now.

So I'm not surprised, and I'm not in any way concerned that we're at this point in the process. I think this is where we would likely be as we're dealing with one of the most important social issues in our country's history.

Thank you very much.

Q Can we do this again --

MRS. CLINTON: Well, you know what? Let me say, one of the things that I didn't mention that influenced me is, a friend of mine gave me a thesis the other day -- gosh, I think it was like Tuesday or Wednesday -- about Eleanor Roosevelt's press conferences. She had 340 press conferences, right -- 340 press conferences during the time.

Q You're my tenth president's First Lady.

Q Will you be doing it, Mrs. Clinton? Will you be doing it --

MRS. CLINTON: Yeah, I think it sounds like fun.

THE PRESS: Thank you.

END

4:45 P.M. EDT

**DEPOSITION OF MARK D. GEARAN
IN RE: S. RES. 120**

THURSDAY, JULY 6, 1995

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.**

Deposition of MARK D. GEARAN, called for examination pursuant to notice of deposition, at 1:43 p.m. in Room 116-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

**ROBERT J. GIUFFRA, JR., ESQ.
Majority Chief Counsel
NEAL E. KRAVITZ, ESQ.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.**

**JUSTIN D. SIMON, Esq.
ELAINE METLIN, Esq.
Dickstein, Shapiro & Morin, L.L.P.
2101 L Street, NW
Washington, DC 20037-1526
On behalf of the Deponent.**

ALSO PRESENT: NGUYEN-HONG HOANG

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EXHIBITS

Mark D. Gearan DEPOSITION NUMBER	IDENTIFIED
Gearan Exhibit 1	213, 2465

P R O C E E D I N G S

Whereupon,

MARK D. GEARAN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q Good afternoon, Mr. Gearan. My name is Robert Giuffra. I'm the chief counsel of the Senate Banking Committee. To my right is Neal Kravitz, who is the principal deputy Democratic special counsel. Would you please state your name for the record.

A Mark Daniel Gearan.

Q The spelling of your last name?

A G as in George, e-a-r-a-n.

Q We'll go through some preliminaries for you. This is a deposition conducted pursuant to Senate Resolution 120. I have a copy of the resolution. I see you're represented by counsel. Maybe Counsel could note an appearance for the record.

MR. SIMON: I'm Justin D. Simon with

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Dickstein, Shapiro & Morin, I'm accompanied today by Elaine Metlin, both partners in the firm.

BY MR. GIUFFRA:

Q Senate Resolution 120 establishes a special committee administered by the Banking Committee to conduct a special investigation related to Whitewater Development Corporation and related matters. Section 1.B.1 of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House deputy counsel Vincent Foster following his death." You understand that will be the focus of today's deposition?

A Yes, I do.

Q When did you learn you would be asked to testify before the Senate?

A In this instance?

Q Yes.

A I guess a month ago or so.

Q And who contacted you?

A I was contacted by my counsel.

1 Q So the request came through your counsel?

2 A I assume the formal request was to the
3 White House. I don't know the formality.

4 MR. SIMON: Just for the record, we
5 received notification from White House counsel that
6 the Committee had requested Mr. Gearan to appear, and
7 I believe at that time we had a date at the time, and
8 I think it was within the last 2-1/2 weeks.

9 BY MR. GIUFFRA:

10 Q And you understand this is a deposition
11 that's being conducted in advance of public hearings
12 that the Committee is planning to hold?

13 A Yes, yes, I do.

14 Q Actually, today it was announced that the
15 hearings will begin on Tuesday, July 18, and there's
16 some possibility that you will be asked to testify at
17 those hearings. We will try to give you advance
18 notice so that you can plan your schedule
19 accordingly.

20 The procedure today --

21 MR. SIMON: Counsel, do you have any idea
22 when that would be known, when the witness list is

1 going to be prepared? Let's put it that way. I
2 realize until after the deposition you may not know
3 whether Mr. Gearan specifically will be asked, but
4 when are you planning to finalize the witness list?

5 MR. GIUFFRA: I would think sometime next
6 week. We will certainly let you know as soon as
7 possible so you can set aside the time to testify.

8 MR. SIMON: Great.

9 BY MR. GIUFFRA:

10 Q I'll be asking a series of questions and
11 then Mr. Kravitz will be asking you a series of
12 questions. You'll be testifying under oath.

13 If at any time today you don't understand a
14 question or if a question is confusing, please let me
15 know and I'll rephrase it. There's no attempt being
16 made to mislead or trick you, so if you find a
17 question to be incomprehensible or whatever, please
18 let us know. You're represented by able counsel so
19 I'm sure that he will have an objection.

20 If at any time today you need a break,
21 again let us know.

22 The stenographer will be preparing a record

1 of the questions and answers. This deposition will
2 be treated as committee confidential until the
3 commencement of the hearings, meaning that we will
4 not be disclosing this to the public. However, after
5 the hearings, in all likelihood the deposition will
6 be contained in a bound volume that the Committee
7 will be preparing and that's something that the
8 Committee did last year in the course of its
9 hearings.

10 You have a right to be represented by
11 counsel and you chose to do so. Counsel may object
12 to the form of questions and that will be noted for
13 the record. Counsel may also object on grounds of
14 privilege or relevance. The resolution specifies a
15 procedure for responding to such objections and that
16 procedure requires that we go to the chairman of the
17 Committee who will rule on such objections.

18 You will be given an opportunity to review
19 the transcript of the deposition to correct any
20 errors in transcription. Deposition transcripts will
21 be made available in a secure room in the Senate four
22 days prior to the start of the hearings, which would

1 be the 14th of July, and then we'll make a copy of
2 the deposition available to your counsel four days
3 prior to the time when you'll be asked to testify.
4 We're going to ask that your counsel keep that
5 deposition confidential and not disclose it to
6 anyone.

7 Also we will ask that what we talk about
8 today and the content of your testimony be kept
9 confidential and not disclosed. Is that all --

10 MR. SIMON: Yes, we understand.

11 THE WITNESS: Is there any further schedule
12 for the hearing schedule or just that it begins on
13 the 18th?

14 BY MR. GIUFFRA:

15 Q It will begin on the 18th and I think the
16 chairman has indicated in his press release today
17 that the further schedule will come out in terms of
18 the procedure.

19 A Okay.

20 MR. GIUFFRA: Off the record.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

1

2

3 Q And your present business address?

4 A The White House.

5 Q And other than your counsel, did you speak
6 to anyone prior to this deposition?

7 MR. SIMON: Concerning what?

8 BY MR. GIUFFRA:

9 Q Concerning the substance of the
10 deposition.

11 A No.

12 Q And are you aware that the committee has
13 requested the White House provide certain documents
14 relating to the subject of the handling of the
15 documents in Mr. Foster's office following his death?

16 A Yes.

17 Q And have you searched for documents that
18 would be responsive to that request?

19 A Yes, I have.

20 Q And insofar as you know, have all
21 responsive documents that you either prepared or that
22 were in your possession have been -- been turned over

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1 to the Committee?

2 MR. SIMON: Counsel, I think since we were
3 responsible for the handling of the document
4 requests, all the documents that were responsive to
5 the request as communicated by White House counsel
6 have been provided to the White House counsel and we
7 assume -- we have assumed have been provided to you.

8 BY MR. GIUFFRA:

9 Q But all documents in your possession have
10 been provided to the White House counsel.

11 A Correct.

12 MR. SIMON: Yes.

13 BY MR. GIUFFRA:

14 Q What is your present position at the White
15 House?16 A Assistant to the President and director of
17 communications and strategic planning.

18 Q Was that your position on July 20, 1993?

19 A Yes, my title at that point was assistant
20 to the President and director of communications.21 Q Is there any significance to the fact that
22 your title presently says director of communications

1 for strategic planning?

2 A There is an organizational change when
3 Mr. Panetta started a year ago that added the
4 planning component of it formally.

5 Q And prior to becoming -- when did you
6 become director of communications?

7 A In June of 1993.

8 Q What was your position prior to becoming
9 director of communications?

10 A Deputy chief of staff at the White House.

11 Q And you worked for Mr. McLarty?

12 A That's correct, I reported to him as deputy
13 chief of staff.

14 Q How many deputy chiefs of staff were there
15 at that time?

16 A For the first four or five months in the
17 administration I was the only one and then Roy Neel
18 joined as a codeputy chief of staff.

19 Q Where was your office located when you were
20 deputy chief of staff in the west wing?

21 A It was in the chief of staff's suite on the
22 first floor of the west wing adjacent to

1 Mr. McLarty's office.

2 Q So it would be the southwest corner of the
3 west wing?

4 A That's correct.

5 Q What was the location of your office
6 relative to Mr. Neel's office?

7 A When we were -- for the two months or so
8 that we were both deputy chiefs of staff, I believe
9 he worked out of the Old Executive Office Building.
10 When I left he took my office.

11 Q Prior to becoming communications director
12 and then -- strike that question.

13 Prior to joining the White House in January
14 of 1993, what position did you hold?

15 A I was deputy director of the transition for
16 the President-elect.

17 Q Prior to becoming deputy director of the
18 transition?

19 A I served on the campaign. I was campaign
20 manager for then Senator Gore, traveling with him as
21 the campaign manager on the Vice Presidential
22 campaign.

1 Q When did you become campaign manager for
2 Vice President Gore?

3 A After the convention, Democratic National
4 Convention.

5 Q Prior to becoming campaign manager for Vice
6 President Gore, what position did you hold?

7 A I was the executive director of the
8 Democratic Governors Association.

9 Q How long did you hold that position?

10 A From 1990 through 1992.

11 Q And prior to becoming an executive director
12 of the Democratic Governors Association?

13 A I was director of federal/state relations
14 for the Commonwealth of Massachusetts.

15 Q Were you located in Washington, D.C.?

16 A Yes, yeah.

17 Q How long did you hold that position?

18 A A total of, I guess it would be five
19 years. It was interrupted for a period of two years
20 when I served as the headquarters press secretary for
21 the Dukakis for President campaign.

22 Q And prior to becoming the director of

14

1 federal/state relations for Massachusetts, what
2 position did you hold?

3 A I was administrative assistant to
4 Congressman Berkeley Bedell here in Washington.

5 Q How do you spell Congressman -- the last
6 name?

7 A B-e-d-e-l-l. He was from Iowa.

8 Q And prior to becoming an aide to
9 Congressman Bedell?

10 A I was a reporter for the Fitchburg Sentinel
11 and Enterprise in Fitchburg, Massachusetts.

12 Q And prior to becoming a reporter, were you
13 in school?

14 A I had two short campaign jobs out of
15 college and then I was in school.

16 Q Just one quick biographical question. Did
17 you work on the Clinton gubernatorial campaign in the
18 first half of 1992?

19 A On the presidential campaign?

20 Q Excuse me, I'm sorry. Yes.

21 A Not formally, no, I did not.

22 Q So you went from being executive director

1 of the Democratic Governors Association to working
2 for Vice President Gore's campaign?

3 A Correct. I never went to Little Rock or
4 anything.

5 Q How did you get the position as campaign
6 manager for Vice President Gore?

7 A I had known -- come to know the President
8 as a member first on Governor Dukakis's staff,
9 working within the National Governors Association,
0 and then as executive director of the Democratic
1 Governors Association, Governor Clinton was involved
2 with that organization. And I assisted on a
3 volunteer basis during the campaign on projects and
4 assisted Warren Christopher on some of the work in
5 the Vice Presidential process and then was asked by
6 them to work with Senator Gore.

7 Q Did you have any role in responding to
8 press inquiries related to Whitewater Development
9 Corporation during the 1992 Clinton Presidential
0 campaign?

1 MR. SIMON: Counsel, I'm going to let him
2 answer the question, but again, having you set the

1 tone and identified the subject of the deposition, I
2 would hope that we could get to that relatively
3 quickly, but I have no problem with him answering
4 this question.

5 MR. GIUFFRA: We will. I'm almost done
6 with these background questions.

7 MR. SIMON: Fine, thanks.

8 MR. GIUFFRA: It's just he has a long
9 resume.

0 THE WITNESS: Can't hold a job.
1 (Laughter.)

2 No, I did not. During that period of time
3 we were -- you mean in the spring of 1992, is that
4 what you're referring to?

5 BY MR. GIUFFRA:

6 Q Correct.

7 A No, I was at the governor's association.
8 It was a period of time when we were about to have
9 our first child and I was most engaged with domestic
0 matters rather than political matters.

1 Q So your first involvement with regard to
2 what we will generically describe as Whitewater

1 matters would have come after President Clinton's
2 inauguration?

3 A Oh, indeed it was deep into 1993 when that
4 was first brought up to me.

5 Q Just one last background. What is your
6 educational background?

7 A I went to Harvard University, undergraduate
8 in government in 1978 and then Georgetown Law School
9 at night in the evening division and finished in
10 February of 1991.

11 Q Generally what were your responsibilities
12 as director of communications on July 20, 1993?

13 A On that day in specific or --

14 Q Just generally, in that time period.

15 A Well, in that time period, I mean my
16 responsibilities, I reported to David Gergen as my
17 immediate supervisor and --

18 Q What was his position at that point?

19 A He was counselor to the President. My
20 duties involved working with the press staff and the
21 communications staff. At that point it involved both
22 the press office and speechwriting and research in

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1 the communications office, to explain and communicate
2 the President's views and positions and the agenda of
3 the administration.

4 Q Did Dee Dee Myers report to you or did she
5 report to Mr. Gergen?

6 A When?

7 Q At this time.

8 A She reported to me.

9 Q So would the -- maybe you could just say.
10 Who reported to you at this particular point in time?

11 A At this point in time there were, I believe
12 it was four deputies to the communications director,
13 the press secretary, Dee Dee Myers, Ricki Seidman,
14 David Dreyer and Jeff Eller handled the regional
15 press, media affairs.

16 Q Is that H-e-l-l-e-r?

17 A It's E-l-l-e-r.

18 Q And to whom did Mr. Gergen report?

19 A To the President.

20 MR. KRAVITZ: Just to clarify the record,
21 you've been saying this time period, I don't think
22 that was ever defined.

1 MR. SIMON: I think he did define the
2 time. We understand the time period --

3 MR. KRAVITZ: He said around July 20, but I
4 don't know how far around July 20 that extends.

5 MR. SIMON: Good point.

6 BY MR. GIUFFRA:

7 Q We can --

8 MR. KRAVITZ: Since things tend to change
9 quickly there.

10 BY MR. GIUFFRA:

11 Q Why don't we stick with July 20 and as we
12 go forward to the extent it becomes relevant that
13 these reporting relationships changed, you can --
14 we'll go into that.

15 MR. SIMON: Is that the way you understood
16 the questions up to this point?

17 THE WITNESS: I've reported the
18 organizational structure as of July 20, 1993.

19 MR. GIUFFRA: That was the intent of the
20 questions. Off the record.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

1 Q What was the location of your office on
2 July 20, 1993?

3 A In the west wing on the first floor. What
4 do you call this, southwest?

5 Q Might it be the northeast corner of the
6 building?

7 A Whatever it is, yeah.

8 MR. SIMON: Which street did you face?

9 THE WITNESS: Facing Pennsylvania Avenue.

10 BY MR. GIUFFRA:

11 Q Closer to the press office?

12 A Correct.

13 Q You had the large office with the
14 fireplace?

15 A Correct, correct.

16 Q Where was Mr. Gergen's office?

17 A When?

18 Q On July 20, 1993.

19 A I believe he was down on the ground floor
20 of the west wing at that point.

21 Q What was your office telephone number on
22 July 20, 1993?

1 A I don't think it's changed since I've been
2 at the White House. I believe it's 456-2640.

3 Q Would Lisa Caputo have reported to you?

4 A No.

5 Q To whom did she report at this time?

6 A My understanding is she reported to the
7 chief of staff to the First Lady.

8 Q Maggie Williams?

9 A Correct, yeah.

10 Q What was Mr. Stephanopoulos's role in
11 communications on July 20, 1993?

12 A Well, he of course was my immediate
13 predecessor, and someone who still was called upon
14 and relied upon for communications advice. He was a
15 senior advisor to the President at that point by
16 title, but remained involved in issues of this
17 nature.

18 Q And what was Mr. Gergen's role?

19 A Generally?

20 Q Yes.

21 A He was counselor to the President and
22 provided a range of policy as well as communications

1 advice to the President.

2 Q And in your capacity as communications
3 director, would you have attended senior staff
4 meetings? This is in the July 1993 period.

5 A Yes, I did.

6 Q Who else would have attended those
7 meetings?

8 A The senior staff meetings?

9 Q Correct.

10 A Most of the -- all of the assistants to the
11 President and I believe at that time some of the
12 deputy assistants to the President selectively would
13 have attended.

14 Q Do you recall whom they might have been?

15 A Who the deputies would have been?

16 Q That would have attended.

17 A The deputies?

18 Q Yes.

19 A Well, for instance, Dee Dee Myers at that
20 point was a deputy assistant to the President.

21 Q She was a regular attendee of the senior
22 staff meetings?

1 A Yes. You know, at that point in time that
2 would be the one that I could specifically tell you
3 was in attendance.

4 Q In your capacity as communications
5 director, do you normally have a procedure that you
6 follow with regard to the confirmation of facts
7 before you state them publicly?

8 MR. KRAVITZ: Do you mean now or in that
9 time period?

10 BY MR. GIUFFRA:

11 Q Let's do in that period.

12 A In that period?

13 Q If it's changed we'll ask that question.

14 A Well, the nature of providing information
15 to the press is reliant upon, in most instances in
16 the White House, members of the staff, senior staff
17 or other administration officials. Procedures not as
18 fact finder or investigator but to call together
19 information required to help explain and to
20 communicate the administration's policies.

21 Q Again, just trying to get a general sense
22 at least, procedures, to the extent you had

1 procedures, would you normally speak to the relevant
2 persons and then try to ascertain what the facts were
3 and then communicate those facts to reporters?

4 MR. SIMON: Counsel, I'm going to object to
5 the question because I don't understand it.

6 MR. GIUFFRA: Strike the question.

7 BY MR. GIUFFRA:

8 Q In your capacity as director of
9 communications, you would regularly speak with other
10 senior White House officials before making public
11 statements?

12 A Yes, or information would be provided to
13 others for me.

14 Q What do you mean by that?

15 A I mean there would have been -- there could
16 have been -- there is written guidance from the
17 National Security Council on matters of national
18 security that's prepared and drafted by others for
19 me, in written form, is my point.

20 Q Were there any written procedures with
21 regard to making press statements at this time?

22 MR. SIMON: For Mr. Gearan?

1 MR. GIUFFRA: For Mr. Gearan or --

2 THE WITNESS: Written procedures?

3 BY MR. GIUFFRA:

4 Q Yes.

5 A No.

6 Q With regard to the confirmation of facts,
7 for example?

8 A No.

9 Q Any kind of formal or written procedures
10 with regard to the President's public statements?

11 A Well, the President's public statements are
12 drafted and generally circulated to the relevant
13 assistant to the President for fact-checking or any
14 related clearance or guidance that would be given.

15 Q Do you know whether -- strike that.

16 Do you know what sort of procedures the
17 First Lady would have followed in this period with
18 regard to public statements?

19 A No, I don't.

20 Q What was the nature of your relationship
21 with Mr. Foster?

22 A I did not know him well. I think I first

1 met him briefly during the transition on a trip to
2 Little Rock and did not have day-to-day contact with
3 him in the White House.

4 Q Did you have any understanding as to
5 whether Mr. Foster worked on personal legal matters
6 for the President and First Lady at the White House?

7 MR. SIMON: At what point in time,
8 Counsel?

9 MR. GIUFFRA: At any point in time when he
10 was at the White House.

11 MR. SIMON: So you're talking about, then,
12 prior to July 20?

13 MR. GIUFFRA: Yes, correct.

14 THE WITNESS: No.

15 BY MR. GIUFFRA:

16 Q That was something that you learned after
17 Mr. Foster's death?

18 A I believe so, yes.

19 Q Prior to --

20 MR. SIMON: Counsel, just so that I make
21 it -- so the record is clear, to the extent that
22 White House counsel may do things like financial

1 disclosure forms, et cetera, that are part of the
2 responsibilities that relate to individuals or do
3 things like blind trusts, I think the witness is
4 assuming that that's office-related rather than
5 personal.

6 MR. GIUFFRA: That was my next set of
7 questions.

8 MR. SIMON: Okay, good.

9 I didn't mean -- I don't mean to interrupt
10 and I'm going to try to be as invisible as possible,
11 but I do want to make that distinction clear.

12 MR. GIUFFRA: No problem.

13 BY MR. GIUFFRA:

14 Q Did you have any knowledge prior to July
15 20, 1993 who at the White House was responsible for
16 the preparation of the President's financial
17 disclosure forms?

18 A I believe I would have understood it to be
19 in the portfolio of the White House counsel's
20 office. I don't know when I would have learned that
21 it was specifically assigned to Vince Foster, whether
22 I learned that before his suicide or not, I can't

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1 place the sequencing.

2 Q And with regard to the preparation of the
3 President and First Lady's tax returns, did you have
4 any understanding prior to July 20, 1993 as to who
5 was responsible for such matters?

6 A No, because -- when it was released I
7 wasn't in the communications office, I wasn't aware
8 of how that was handled.

9 Q Just a couple more of these background
10 questions. With regard to the Whitewater matter
11 generally, when did you first become aware of that
12 particular -- when did you first become aware of
13 Whitewater?

14 MR. SIMON: Counsel, I would appreciate it
15 if you could ask as to when did he first become aware
16 of the issue of Whitewater while he was at the White
17 House rather than generally. I'm not sure his
18 understanding of what constitutes "generally" is the
19 same as yours.

20 BY MR. GIUFFRA:

21 Q The way your counsel phrased the question
22 is fine.

1 A I believe it was in October of 1993.

2 Q And how did you become aware of Whitewater
3 in October of 1993?

4 A Reporters calling for information to the
5 White House.

6 Q Do you recall what sort of information
7 reporters were calling about at that time?

8 MR. SIMON: Counsel, this has been the
9 subject of separate testimony in the Senate where
10 Mr. Gearan testified before another committee. It
11 really is a matter of public record and has been made
12 a record by the --

13 MR. GIUFFRA: I'm aware of that. One
14 question and then we're done.

15 THE WITNESS: Could you repeat it?

16 BY MR. GIUFFRA:

17 Q When you first learned about Whitewater in
18 October 1993, was that with regard to the Treasury
19 contacts issue?

20 A I can't tell you what the first reporter
21 question was or frankly when exactly it was, but it
22 was regarding generally, as you said, the issue of

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1 Whitewater. It was not in the instance of the
2 Treasury contacts because that involved a different
3 issue.

4 Q Another set of facts. But you don't recall
5 what the subject matter was?

6 MR. SIMON: Counsel, I think the public
7 record is, just so we don't have any uncertainty
8 here, the public record was that it related to an
9 inquiry which had been made to the Treasury and press
10 inquiries also anticipated to the White House
11 regarding the referral from the RTC to the Justice
12 Department, and that was the context of
13 Mr. Gearan's --

14 BY MR. GIUFFRA:

15 Q Mr. Gearan, obviously your counsel is not
16 under oath here. Does that refresh your recollection
17 as to the --

18 A That's my understanding.

19 Q When did you first learn of Vincent
20 Foster's death?

21 A On the evening of July 20, somewhat after
22 9:00 that evening.

1 Q How did you learn of Vincent Foster's
2 death?

3 A Bill Burton told me.

4 Q Where were you at that time?

5 A I was in the -- on the ground floor of the
6 residence, the White House residence. The President
7 was in an interview across the hall with Larry King.

8 Q Did Mr. Burton contact you in person or by
9 telephone?

10 A In person.

11 Q And what did he say to you?

12 A As best as I can recall, he said that he
13 had been notified that Vince Foster's body was found
14 and that he had taken his life. I'm not sure how
15 much more detail at that point I was aware of.

16 Q Did Mr. Burton contact anyone else at that
17 time while you were present?

18 A I had stepped out of the room where we were
19 watching the Larry King show. When he told me, I
20 suggested that we have Mack McLarty come out to the
21 hallway as well, which he did, and then Burton retold
22 the story and I believe George Stephanopoulos was

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1 there for that retelling.

2 Q What do you recall doing next?

3 A I can't recall the exact sequencing of
4 this.

5 Q Take your time.

6 A It won't help the exact sequencing. I can
7 tell you the range is, number one, I can recall, and
8 again this isn't in any chronological order
9 necessarily, placing some calls from the phones on
10 the ground floor of the residence to some senior
11 staff, to alert them of this. And George, I can
12 recall George Stephanopoulos being on another phone
13 right next to me placing calls as well.

14 Q Do you have any recollection as to who you
15 might have called at that time?

16 A I can recall speaking with John Podesta,
17 the staff secretary to the President. I believe
18 Carol Rasco, and I believe I tried --

19 Q What was her position?

20 A Assistant to the President for domestic
21 policy. She was from Arkansas and I was aware that
22 she would have known Vince Foster.

1 MR. SIMON: And you were --

2 THE WITNESS: And I know that I was trying
3 to reach Mr. Gergen. I cannot remember whether I
4 reached him at that point in time or later.

5 BY MR. GIUFFRA:

6 Q Was Mr. Gergen at the White House or at
7 home at that point?

8 A He was at a dinner party. I believe he was
9 at a dinner party.

10 Q What do you recall doing next?

11 A I recall also having the sense that it was
12 very important that two things in terms of dealing
13 with CNN and the President being on live television
14 at this point. Number one, that the show not be
15 extended. It was tradition for Mr. King to, after 60
16 minutes, ask for an additional 30 minutes of the
17 President. We thought it prudent that the show end
18 at the appointed time. But secondly, because this
19 was on live television and the potential for this
20 getting on the wire and becoming a news story, that
21 the President would either be asked by King on live
22 television or by a caller about this and that indeed

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1 the President would then be asked -- be told of the
2 death of his friend on live television.

3 So I worked with the producer of CNN to
4 insure both of those things being dealt with, that
5 the show would not be extended and that the President
6 would not be notified on the air.

7 Q Do you recall doing anything else?

8 A During this hour you mean?

9 Q During this hour period, between what, 9:00
10 and 10:00?

11 A Correct. I don't -- at some point in time
12 I remember going down to the map room, which was a
13 couple of rooms down from where we were and speaking
14 with some of my colleagues. And then at the end of
15 the show --

16 Q Do you recall who was present in the map
17 room?

18 A Dee Dee Myers was present, Ricki Seidman
19 was present, George I mentioned. I recall during the
20 course of the evening seeing Bruce Lindsey come down
21 the hall and going into the map room and being there,
22 at some point Bernie Nussbaum being in the map room.

1 Q Do you recall speaking with Bernie Nussbaum
2 in the map room?

3 A I don't recall any personal conversation.
4 We were standing around informally. I have no
5 recollection of a personal conversation.

6 Q Do you have any recollection of any of the
7 conversations that you had while you were in the map
8 room?

9 A Well, I can recall both Mr. Lindsey and
10 Mr. Nussbaum being quite upset and the instance of
11 Mr. Lindsey sobbing about Mr. Foster's death, but no,
12 I don't have any further recollection.

13 Q And then I presume the show ended, what, at
14 10:00?

15 A That's right. I walked into the library
16 where it was being filmed with Mr. McLarty and our
17 arrangement worked out in advance is that I would
18 speak to King and tell him that the President needed
19 to go right away. We had arranged that the President
20 was going to give a tour of the Lincoln room to a
21 guest of Mr. King's and his party and I had to tell
22 him that that could not be possible. And Mr. McLarty

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1 went directly to the President and said you need to
2 go upstairs immediately.

3 Q What did you do next?

4 A After they went upstairs?

5 Q Yes.

6 A The President and Mack went upstairs to the
7 residence. I went -- I believe I went back to the
8 map room to see my colleagues.

9 Q Do you recall anything about that period
10 when you went -- how long were you in the map room
11 for?

12 A After the President went up?

13 Q Yes.

14 A I don't believe it to be very long.

15 Q 10, 15 minutes?

16 A Or less.

17 Q Do you recall anything about that period in
18 the map room?

19 A Other than the instances I've cited, no. I
20 don't have a vivid recollection of anything.

21 Q Where did you go next from the map room?

22 A Next I went to my office in the west wing.

1 Q And what did you do once you got to your
2 office?

3 A We were working on a statement that was to
4 be issued that evening.

5 Q Would this be a condolence statement?

6 A Yes, the statement from the President that
7 would both give the facts as much as we knew them at
8 that time and a statement of the President.

9 Q Who was working with you on that statement?

10 A David Dreyer, George Stephanopoulos I
11 recall being there, Dee Dee Myers and Ricki Seidman
12 was, I believe, around my office at that point.

13 Q Do you recall making any telephone calls
14 from your office on the night of July 20 between
15 10:15 and say 11:00?

16 A I recall -- as I said before, whether I
17 reached him from the ground floor of the residence or
18 not, but trying to reach Mr. Gergen to update him on
19 the events. That was speaking with him during the
20 course of that.

21 Q Did you have several conversations with
22 Mr. Gergen?

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1 A During the course of the evening?

2 Q Telephone conversations.

3 A Yes.

4 Q Did he ultimately come to the White House
5 that evening?

6 A I did not see him that evening but I was
7 aware that after the President, who eventually went
8 to the Fosters' residence came back, Mr. Gergen was
9 with him at the residence.

10 Q Do you recall seeing Mr. Gergen?

11 A I did not see him that evening.

12 Q What do you recall about your conversations
13 with -- do you recall how many conversations you
14 might have had with Mr. Gergen?

15 A I don't recall how many. They were
16 generally for the purpose of updating him on events
17 or giving him any information of what -- any
18 information that I knew, transmitting it to my
19 supervisor kind of. That was the tone of it.

20 Q These were the calls that went on on an
21 ongoing basis throughout the evening?

22 A Yeah. I don't know how many there were but

1 there were a few of them.

2 Q Do you know whether Mr. Gergen had a
3 cellular phone?

4 A I don't know if he had a cellular phone or
5 not.

6 Q Did you have a cellular phone?

7 A I was --

8 MR. SIMON: Are you asking him whether he
9 was using a cellular phone that night or whether or
10 not he had one at the time?

11 BY MR. GIUFFRA:

12 Q Did you have a cellular phone on July 20,
13 1993?

14 A I believe I was issued one at that point.
15 I rarely use it.

16 Q And would it be your testimony that you did
17 not use the cellular phone on July 20, 1993?

18 A I don't recall using it. I try not to use
19 it.

20 Q With regard to conversations that you had
21 with Mr. Gergen, do you recall anything more about
22 the conversation with him that evening?

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1 A Well, I can recall that I first reached him
2 at a dinner party and that he was appreciative of the
3 call because he was with several reporters and he
4 would be asked about events potentially. I can
5 recall informing him that the President either was
6 going or was at the Fosters' residence and him
7 telling me that he was going to go there as well.
8 And the question was just --

9 Q Maybe I'll ask a series of more specific
10 questions. Do you recall, did you stay in the
11 communications office the entire evening?

12 A For most of the evening. One instance I
13 can remember walking over to Bill Burton's office,
14 but I did not go upstairs to Mr. Foster's office.

15 Q Do you recall approximately the time you
16 went to Mr. Burton's office?

17 A Excuse me, could I add one other thing?

18 Q Yeah, sure.

19 A In addition to my office, once we had
20 drafted the statement, I did go over to the residence
21 to show it to the President for his approval, but
22 other than that and Burton's office, I don't think I

1 left the office, the suite.

2 Q Do you recall the approximate time you
3 might have gone to Mr. Burton's office?

4 A No.

5 Q Do you recall whether it was earlier in
6 this period or later?

7 A Well, if I go back to my office sometime
8 after 10:00, for however long I was at the map room,
9 then I showed the statement to the President before
10 he left for the Fosters' residence. And I can't give
11 you a specific time. I mean, I think I left around
12 midnight. I don't know if it was when I -- when the
13 President was at the Fosters' residence or when he
14 came back. I don't think I would know that.

15 Q Did you enter the chief of staff's office
16 on July 20, 1993 in the evening?

17 A His personal office?

18 Q Yes.

19 A I don't believe I did.

20 Q Do you recall the other people who were
21 in -- strike that.

22 You went into the outer office of the chief

1 of staff's suite; is that correct?

2 A That's correct.

3 Q You did not go -- did you go into
4 Mr. Neel's office?

5 A No.

6 Q Which would have been to the left looking
7 into the office?

8 A That's correct.

9 Q And do you recall who else might have been
10 present in the outer office, the chief of staff's
11 suite?

12 A When I was there with Burton?

13 Q Yes.

14 A Sylvia Mathews was there as well.

15 Q Can you recall anyone else who was present?

16 A I don't think so.

17 Q Did you -- was Mr. Burton in the chief of
18 staff's suite when you arrived or did he come to your
19 office and then you walked over?

20 A I can't recall.

21 Q Did you go to the chief of staff's suite
22 for any particular purpose?

1 A I don't know if this was the purpose, but
2 what I recall about that time was Sylvia Mathews had
3 said to me earlier that there was the -- a trash bag
4 from Vince Foster's office that was separated from
5 the rest of the other individual office trash bags
6 and that it was in Bill Burton's office and she had
7 identified it from what she thought was to have been
8 Vince Foster's individual trash bag.

9 MR. GIUFFRA: Off the record.

10 (Discussion off the record.)

11 (Recess.)

12 BY MR. GIUFFRA:

13 Q Mr. Gearan, just by way of clarifying some
14 of the office geography of the chief of staff's
15 suite, Mr. Neel had the office looking into the main
16 anteroom to the left that you previously occupied?

17 A That's correct.

18 Q And the chief of staff's office was to the
19 right looking into the doorway?

20 A That's correct.

21 Q And where was Mr. Burton's desk location?

22 A His desk was in, as you say, this anteroom

1 against the wall near the window.

2 Q Now, with regard to Sylvia Mathews, did
3 there come a time during the evening of July 20, 1993
4 when you first spoke to Sylvia Mathews?

5 A Yes.

6 Q Do you recall when that was?

7 A It was at some point when I returned to my
8 office, I suspect it was after we had prepared the
9 statement, but I can't tell you that with any
10 certainty. And she came into our suite.

11 Q Who was present when Sylvia Mathews entered
12 your suite?

13 A I can remember having a conversation with
14 her at the desk right outside of my office and
15 talking with her there, and for some period of this
16 conversation Howard Pastor was there.

17 Q Who is Mr. Pastor?

18 A Mr. Pastor was assistant to the President
19 and director of Congressional relations.

20 Q What do you recall about this first
21 conversation with Sylvia Mathews on the night of July
22 20, 1993?

1 MR. SIMON: Was there more than one?

2 THE WITNESS: I'm not aware that there
3 was.

4 BY MR. GIUFFRA:

5 Q So there was just one conversation?

6 A Yes. I can recall having a conversation
7 with Sylvia Mathews in which she told me that she --
8 it occurred to her as they were picking up the trash
9 in the west wing, because she also had an office on
10 the second floor of the west wing down the hall from
11 Vince Foster, that it might be prudent or helpful to
12 save his trash bag if it could be determined, and she
13 did that and determined it because of credit card
14 receipts, I believe she said. That's how she knew
15 that it was Mr. Foster's individual bag.

16 Q Did she tell you this in your suite, during
17 the conversation in your suite?

18 A I believe so, yes.

19 Q Did you take any action in response to what
20 Sylvia Mathews said to you?

21 A No. Action? No. I can remember telling
22 her that I too thought that was a good idea. I can

1 recall thinking that there might be something there
2 that his family might find comforting or helpful.

3 Q Do you recall any discussion of a possible
4 suicide note being in the trash?

5 A No.

6 Q Did anything that Ms. Mathews said to you
7 prompt you to go to the chief of staff's office
8 suite?

9 A No. As I said, I don't know for what
10 purpose I went there. What I can recall is being
11 there and seeing the bag outside of -- or in that
12 anteroom and that Burton was there and Sylvia.

13 Q Do you recall discussing the bag with
14 Burton and Sylvia at that point, in the chief of
15 staff's suite?

16 A No, the conversation I had with Sylvia was
17 about the bag, I believe was in my -- I don't have a
18 recollection of what our conversation was at that
19 point, the three of us.

20 Q Do you recall for about how long you were
21 in the chief of staff's suite that evening?

22 A I do not recall it being very long.

1 Q And it would be your testimony that they
2 were the only people that you saw in the chief of
3 staff's suite that evening?

4 A Yes, yes.

5 Q That was your only visit to the chief of
6 staff's suite that evening?

7 A I believe so.

8 Q Do you recall any discussion on the night
9 of July 20, 1993 with regard to the retrieval of a
10 burn bag from Mr. Foster's office?

11 A No.

12 Q Did Mr. Burton on July 20, 1993 mention to
13 you that he had spoken to the Park Police that
14 evening?

15 A I don't recall that he specifically
16 mentioned the Park Police. In the first conversation
17 when he told me about the call that he had received,
18 I had the sense it was from law enforcement, but I
19 can't --

20 MR. SIMON: You're talking about the call
21 you had with him down in the basement of the
22 residence?

1 THE WITNESS: Soon after 9:00, and beyond
2 that I don't recall any conversation involving the
3 Park Police.

4 BY MR. GIUFFRA:

5 Q Do you recall any conversation with anyone
6 on the night of July 20, 1993 with regard to the need
7 to seal Mr. Foster's office?

8 MR. SIMON: Regarding the need to seal it?

9 MR. GIUFFRA: Strike that.

10 BY MR. GIUFFRA:

11 Q With regard to sealing Mr. Foster's office?

12 A I can recall a conversation I had with
13 David Gergen who asked me if Vince Foster's office
14 was locked, and I can recall asking Bill Burton about
15 it. I don't know whether I was on the phone or if
16 that was why I was in Bill Burton's office. I can't
17 recall, but that him telling me that the office was
18 locked and my reporting back to Mr. Gergen that the
19 office was locked.

20 Q Did Mr. Gergen say anything more to you
21 other than just simply asking you to ascertain
22 whether Mr. Foster's office was locked?

1 A Anything more about --

2 Q Why, for example, he wanted -- why the
3 office needed to be locked?

4 A No.

5 Q So it would be your testimony that he just
6 said find out if Mr. Foster's office is locked?

7 A My recollection is that he asked me is it
8 locked, and I said I don't know. I will need to
9 check. I believe is the sequence. And my asking
10 Burton.

11 Q Do you recall him saying why he was
12 interested in seeing -- in ascertaining whether the
13 office was locked?

14 A No.

15 Q He didn't give you any reason for making
16 that request?

17 A No.

18 MR. SIMON: First of all, he just said --

19 THE WITNESS: It wasn't a request.

20 MR. SIMON: He just said he wasn't asking
21 him to see if it was locked. He was asking him if
22 the office was locked.

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1 THE WITNESS: It wasn't a request is my
2 point. Maybe I'm not making it clear. But because
3 the nature of our calls during the evening were
4 updates in status, this was along that kind of
5 conversation.

6 BY MR. GIUFFRA:

7 Q Did Mr. Gergen indicate to you that he had
8 discussed locking Mr. Foster's office with anyone
9 that evening other than yourself?

10 A No.

11 Q Do you recall the approximate time of the
12 phone conversation you had with Mr. Gergen with
13 regard to locking Mr. Foster's office?

14 A I don't. I don't know whether that was a
15 conversation we would have had when he had returned
16 to the White House or if he had called me from the
17 Foster residence. I can't pinpoint that time.

18 Q Do you recall the time when Mr. Gergen
19 returned to the White House on July 20, 1993?

20 A You know, I don't know. I assumed he came
21 with the President, but I don't actually know that.

22 Q Do you know when the President returned to

1 the White House?

2 A I recall him being at the Fosters' for 40
3 minutes or so. That is ascertainable. I don't
4 recall that.

5 Q Do you recall whether you immediately went
6 to ask Mr. Burton whether the office was locked?

7 A Again, I don't know whether I did it on the
8 phone or in person, but I don't recall any delay in
9 asking.

10 Q So the sequencing of the informational
11 request by Mr. Gergen and getting an answer from
12 Mr. Burton would be fairly close in time?

13 A Yes. I don't frankly recall if I had put
14 him on hold to get the answer from Burton. I just
15 don't know.

16 Q Do you recall specifically what Burton said
17 to you?

18 A Specifically no, but I recall enough, being
19 able to affirm to Mr. Gergen that the office was
20 locked.

21 Q Did Mr. Burton mention Mr. Nussbaum in
22 connection with locking the office?

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1 A No.

2 Q Did he mention anyone in connection with
3 locking the office?

4 A I don't recall that, no.

5 Q Do you recall asking anyone on the night of
6 July 20, 1993 whether anyone had entered Mr. Foster's
7 office?

8 A Could you repeat the question?

9 Q On July 20, 1993, that evening, do you
10 recall asking anyone whether persons had entered
11 Mr. Foster's office?

12 A No.

13 MR. KRAVITZ: Since his death you mean?

14 MR. GIUFFRA: Fine, since his death.

15 THE WITNESS: No, I don't recall asking
16 anyone.

17 BY MR. GIUFFRA:

18 Q Do you recall any further discussions on
19 the night of July 20, 1993 bearing in any way on this
20 question of whether -- of locking the office?

21 A No.

22 Q Do you recall seeing Maggie Williams on the

1 night of July 20, 1993?

2 A No.

3 Q Do you recall making any -- strike that.

4 Do you recall speaking with Mr. Watkins on
5 the night of July 20, 1993?

6 A Yes.

7 Q What do you recall about the conversation
8 with Mr. Watkins?

9 A I recall having a conversation with him
10 from the residence ground floor phones where he
11 indicated to me that he was going to the Foster
12 residence with the Park Police to inform Mrs. Foster
13 of the -- of Vince Foster's death.

14 Q Do you recall anything more about your
15 conversations with Mr. Watkins?

16 A No, just that he would be accompanying them
17 and -- no, I can't be any more specific.

18 Q Did you ever speak to Mr. Livingstone on
19 the night of July 20, 1993?

20 A Yes. Again, this was from the phones on
21 the ground floor of the residence. It would have
22 been during the Larry King show in which he told me

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1 that he was going to be going to the Fairfax
2 Hospital, I believe, to join Bill Kennedy where
3 Kennedy would identify the body of Vince Foster. And
4 I can remember thinking that that was a good idea
5 because I was aware of Foster's -- Kennedy's
6 friendship with Foster and that it would be perhaps
7 helpful to him to have someone there with him.

8 Q Do you recall speaking with Mr. Kennedy on
9 the night of July 20, 1993?

10 A No.

11 Q Do you recall speaking with anyone else
12 other than the people we've mentioned on the night of
13 July 20, 1993?

14 MR. SIMON: Do you remember everybody we
15 mentioned?

16 THE WITNESS: You know, there may have been
17 press calls. I can't remember any one specifically.
18 Telephone calls, is that the question?

19 BY MR. GIUFFRA:

20 Q Yes, yes.

21 A No, to the best of my recollection.

22 Q Do you recall any other conversations in

1 person with anyone on July 20, 1993 at the White
2 House in the evening, other than those you've
3 testified to?

4 A Burton -- I don't believe so.

5 Q Did you tell anyone other than Mr. Gergen
6 on the night of July 20, 1993 that Mr. Burton had
7 indicated that Mr. Foster's office was locked
8 following his death?

9 A I don't recall.

10 Q Is that something you might have mentioned
11 to Dee Dee Myers, for example?

12 A I may have. I don't recall.

13 Q Did -- strike that.

14 Where was Mr. Pastor's office in the west
15 wing?

16 A It was in the second floor of the west wing
17 in the northwest side, facing Pennsylvania Avenue.

18 Q Do you recall any conversation you might
19 have had with Mr. Pastor on the night of July 20,
20 1993 other than what you've testified to?

21 A No, I don't recall any specific elements of
22 any conversation.

1 Q So he never said anything about whether he
2 saw any activity in the counsel's suite on the July
3 of -- night of July 20, 1993?

4 A No.

5 Q Did anyone on the night of July 20, 1993
6 indicate to you that there were any activity in the
7 counsel's suite following Mr. Foster's death?

8 A No.

9 Q With regard to Mr. Gergen's informational
10 request with regard to locking the office, was he
11 referring to or was it your understanding that
12 Mr. Gergen was referring to locking Mr. Foster's
13 office door or was he referring to locking the suite
14 office door?

15 A I don't know what he was referring to.
16 What I understood it to mean would be Mr. Foster's
17 actual door to his office and not to the suite.

18 Q Do you recall whether Mr. Burton indicated
19 that it was that particular door that had been locked
20 or that it was the suite door that had been locked?

21 A I don't recall.

22 Q Do you recall anything more about the words

1 that were used by Mr. Burton?

2 A No. In fact, I couldn't testify that it
3 was -- your question I think was "sealed" or
4 "locked." I'm not sure I would have particularly
5 been savvy enough on the distinction at that point in
6 time. I understood it as locked.

7 Q Was it your understanding that Mr. Gergen
8 was concerned that people not enter Mr. Foster's
9 office on the night of July 20 after his death?

10 A I didn't understand -- I don't think I knew
11 anything more than what was somewhat, I thought, a
12 routine question. Was it locked, I checked, it was.
13 That was pretty much the extent of my involvement in
14 the issue.

15 Q Had you ever been to the counsel's suite on
16 the second floor of the west wing?

17 A Ever?

18 Q Yes.

19 A Prior to the 20th?

20 Q Yes.

21 A Yes.

22 Q Do you recall the location of Mr. Foster's

1 office?

2 A Yes.

3 Q Where was it?

4 A It was -- you entered off the hallway to an
5 anteroom where there were assistants' desks. And a
6 sharp right into Vince Foster's office, the deputy
7 counsel's office, adjacent to the counsel's office.

8 Q On approximately how many occasions would
9 you estimate that you had been in Vince Foster's
10 office while he was still alive?

11 A Two, three.

12 Q Do you recall whether the papers on his
13 desk were maintained in an orderly fashion?

14 A I have no recollection.

15 Q Did Burton in any way indicate to you that
16 he had gone up to Foster's office to lock the door?

17 A No, he did not indicate.

18 Q So it would be your testimony he just
19 indicated that the door was locked?

20 A Correct.

21 Q And you understood that to mean Foster's
22 door?

1 A Correct.

2 Q Did he indicate Foster's door or did he
3 just say the door is locked?

4 A I don't even know how I asked it. I
5 understood it that it was Foster's door. I cannot
6 testify with any precision that he specified which
7 door.

8 Q Do you recall any more about the evening of
9 July 20, 1993 at the White House?

10 MR. SIMON: Counsel, is there anything
11 specific? I mean -- I mean, I guess the witness can
12 answer that question if he understands it, but it
13 would be a little bit hard for me to answer that
14 question.

15 BY MR. GIUFFRA:

16 Q Does anything more stand out in your memory
17 with regard to the events following Mr. Foster's
18 death on July 20, 1993?

19 A The President returned from the Fosters'
20 residence. We issued a statement. It was a very sad
21 evening at the White House.

22 Q When you arrived home did you make any

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1 other phone calls?

2 A No.

3 Q Do you recall when you arrived at the White
4 House on July 21, 1993?

5 A I don't. It's my norm to arrive between
6 7:00 and 7:30.

7 Q Do you recall speaking with Mr. Nussbaum on
8 the morning of July 21, 1993?

9 A I recall speaking to him on the afternoon
10 of the 21st before the briefing. I cannot recall a
11 morning conversation with him.

12 Q Do you recall speaking with Maggie Williams
13 at any time on July 21, 1993?

14 A No.

15 Q Do you recall seeing Patsy Thomasson at the
16 White House on July 20, 1993?

17 A No.

18 Q Do you recall speaking with Patsy Thomasson
19 on July 21, 1993?

20 A No.

21 Q Were you aware of the location of
22 Mr. Livingstone's office as of July 21, 1993?

1 A No.

2 Q Did you know what Mr. Livingstone's
3 position was as of July 21, 1993?

4 A He was the administrative office assistant
5 handling the security arrangements around the complex
6 is my understanding.

7 Q Did he report to Mr. Watkins?

8 A I believe so.

9 Q Was Mr. Watkins the senior staff member
10 responsible for security?

11 A Well, I don't know what you mean by
12 "security." I mean I suspect -- at the White House
13 there's the United States Secret Service, there's a
14 military office that handles aspects of it. David
15 Watkins was head of administration and management.

16 Q Did the Secret Service agent in charge of
17 the -- did the Secret Service report to Mr. Watkins
18 or at least keep him advised as to security matters?
19 Let's strike the question.

20 MR. SIMON: Counsel, could we go off the
21 record?

22 MR. GIUFFRA: Yes.

1 (Recess.)

2 BY MR. GIUFFRA:

3 Q On the morning of July 21, 1993 did you see
4 Craig Livingstone at the west wing of the White
5 House?

6 A No.

7 Q Did you attend the senior staff meeting on
8 July 21, 1993?

9 A I believe I did, yes.

10 Q Do you recall any discussion at the senior
11 staff meeting with regard to sealing or locking
12 Mr. Foster's office?

13 A No, I don't recall that.

14 Q Let me just ask you one other. Do you know
15 whether Mr. McLarty at any time on the night of July
16 20, 1993 asked that Mr. Foster's office be sealed or
17 locked?

18 A No. I mean, I don't know that.

19 MR. KRAVITZ: I'm sorry, what was the
20 question?

21 (The reporter read the record as requested.)

22 BY MR. GIUFFRA:

1 Q And your testimony was you don't know?

2 A I don't know, that's correct.

3 Q Do you recall any discussion at the senior
4 staff meeting on July 21, 1993 with regard to the
5 Park Police investigation into Mr. Foster's death?

6 A No.

7 Q Do you know whether there was a briefing of
8 White House officials by the Park Police on the
9 morning after Mr. Foster's death?

10 A I don't know that, no.

11 Q And you did not attend such a briefing?

12 A No.

13 Q Do you recall speaking with
14 Mr. Stephanopoulos at any time on July 21, 1993 about
15 the Park Police's investigation into Mr. Foster's
16 death?

17 A No, I don't recall that.

18 Q Do you recall visiting the White House
19 counsel's office suite on July 21, 1993?

20 A No.

21 Q Did you have any conversations with anyone
22 on July 21, 1993 with regard to the locking or

1 sealing of Mr. Foster's office?

2 A I don't recall. I know that in the course
3 of -- we had Mr. McLarty give a statement in the
4 pressroom and then I did a general press briefing
5 that afternoon. I think it might have been asked of
6 me in that briefing, so if that's a conversation, I
7 was asked, but I don't recall revisiting the issue
8 from the night before.

9 Q In preparing for that press briefing, it
10 would be your testimony, then, that you didn't ask
11 anyone anything further about locking or sealing
12 Mr. Foster's office?

13 A I don't recall that.

14 Q In preparing for the press briefing on the
15 afternoon of July 21, 1993, do you recall who you
16 spoke to?

17 A I can recall David Gergen, Dee Dee Myers,
18 Mack McLarty was there because he preceded me at the
19 podium, and Bernie Nussbaum.

20 Q Do you recall anything about your
21 conversation with Mr. Gergen prior to the press
22 briefing on July 21, 1993?

1 MR. SIMON: Relating to the Foster
2 suicide?

3 MR. GIUFFRA: Correct.

4 THE WITNESS: No. I can recall a
5 premeeting in my office before it. It was just to
6 collect the -- as much of the information that we had
7 at that point in time.

8 BY MR. GIUFFRA:

9 Q Was that premeeting attended by Gergen,
10 Myers, McLarty and Nussbaum?

11 A I believe that's the group.

12 Q And would that have been the first meeting
13 you had on July 21, 1993 with regard to Mr. Foster's
14 death?

15 A I can't say that. It was the meeting we
16 had before the press briefing. During the course of
17 the day, the President's schedule was changed. He
18 spoke to the staff in the Old Executive Office
19 Building and we set up a press pool for the President
20 to make a brief statement to the press, so there were
21 events during the day so it would not have been the
22 first conversation I would have had about it. The

1 purpose of that meeting was before the briefing.

2 Q What do you recall about the prebriefing
3 meeting in terms of subject matters that were
4 discussed?

5 A Well, we -- what I recall most is a
6 discussion of what we wanted to say about Vince
7 Foster and his service in the administration.
8 Frankly, I recall spending time on Mack's statement
9 that he was going to speak, and I was mindful that
10 this was personally more difficult for him certainly,
11 given his years of friendship, than for me. And what
12 we would possibly know as to why he would have taken
13 his life.

14 Q Do you recall any discussion of the Park
15 Police's investigation into Mr. Foster's death?

16 A No, only that the Park Police would be
17 investigating it. I don't know how much I knew at
18 that point in time or in the ensuing days, but I had
19 understood certainly during this general period of
20 time that the Park Police would be investigating.

21 Q Do you recall anything more specifically
22 about --

1 A Before the briefing?

2 Q Yes.

3 A No.

4 MR. GIUFFRA: Off the record.

5 (Discussion off the record.)

6 BY MR. GIUFFRA:

7 Q Mr. Gearan, in terms of to speed up your
8 deposition, I would just like to focus you over the
9 days following Mr. Foster's death and what we'll
10 focus on will be issues relating to the subject
11 matter that the Senate is now looking into, meaning
12 entries into Mr. Foster's office, handling of the
13 documents in Mr. Foster's office, the Park Police's
14 investigation into Mr. Foster's death. That's --

15 A Fine. I would like to be as helpful as I
16 can.

17 Q Do you recall any discussions with anyone
18 at the White House on July 21, 1993 with regard to
19 the sealing of Mr. Foster's office or the locking of
20 Mr. Foster's office?

21 A No.

22 Q Did anyone indicate to you there had been a

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1 guard posted in front of Mr. Foster's office?

2 A I have a vague recollection of that at some
3 point in time. I don't know when I ever learned of
4 it. I never saw it. I never went upstairs that day.

5 Q Do you ever recall any discussions with
6 anyone at the White House on July 21, 1993 with
7 regard to the Park Police investigation of
8 Mr. Foster's death?

9 A I'm sorry, what date?

10 Q July 21.

11 A Regarding the Park Police investigation?

12 Q Yes.

13 A Other than that they would be
14 investigating, no.

15 Q Do you recall any discussion of
16 coordination of the Park Police's activities through
17 the Department of Justice?

18 A I don't know if that was July 21 or later,
19 but in that period of time there was press questions
20 as to who was the -- how this investigation was being
21 conducted given the jurisdictional issues. And I can
22 remember that it was told to me that the Justice

1 Department was the point of contact for this and that
2 we could refer press inquiries to the Department of
3 Justice.

4 Q Do you recall whether anyone indicated to
5 you why the Department of Justice was the point of
6 contact?

7 A No. I don't -- it was the point of contact
8 given -- because it was the different authorities. I
9 don't know.

10 Q On July 21 or 22, do you recall any
11 discussion with regard to the process that would be
12 used to review the documents that were in
13 Mr. Foster's office?

14 MR. SIMON: Discussion regarding the
15 process? Are you talking about the procedures that
16 would be followed?

17 BY MR. GIUFFRA:

18 Q The procedures to be followed by either
19 counsel's office or the Park Police or the Department
20 of Justice with regard to how the documents in
21 Mr. Foster's office would be examined?

22 A I don't recall when I knew that this search

1 would be conducted or who exactly the participants
2 would be, but I was informed that there was a search
3 and who the participants were. I don't think I ever
4 had a briefing on the procedures that were followed.
5 I only knew that the -- that there was a search and
6 who the players were.

7 Q Do you recall any discussion with regard to
8 any criticism as to how the search would be
9 conducted?

10 MR. SIMON: At what point in time?

11 BY MR. GIUFFRA:

12 Q Let's just stick to the 21st and 22nd.

13 A No.

14 Q Again, to speed up your deposition, let's
15 try to settle on the time frame between Foster's
16 death, which is July 20, and the -- strike that.

17 Did there come a time at which a note was
18 found in a briefcase in Mr. Foster's office?

19 A Yes.

20 Q Do you recall the date?

21 A My understanding is that it was found on
22 the 26th of July.

1 Q Between July 20 and 26, do you recall any
2 other discussions other than those you've testified
3 to with regard to the sealing or locking of
4 Mr. Foster's office?

5 A No.

6 Q Now, you indicated that you gave a press
7 briefing, I believe it was on July 21, in which you
8 indicated that the office was sealed?

9 A Yes.

10 Q What was the basis for your statement that
11 the office was sealed?

12 A I believe --

13 MR. SIMON: You're using the words "sealed"
14 and "locked" synonymous?

15 MR. GIUFFRA: Yes.

16 THE WITNESS: I believe it was from the
17 information I had received the night before when
18 Gergen asked me. I don't know that I, in the
19 preparation for that next day's briefing, reaffirmed
20 that or not. I cannot recall.

21 BY MR. GIUFFRA:

22 Q After you gave the press briefing, did you

1 check to see whether that fact was still accurate,
2 whether you believed that fact to be accurate?

3 A No.

4 Q So it would be your testimony you didn't
5 make any further inquiries with regard to whether the
6 office had been locked or sealed?

7 A I'm not sure I understand the distinction
8 between locked and sealed, but I don't think I went
9 back, at least I don't recall any further
10 conversation.

11 MR. KRAVITZ: Do we have the transcript so
12 we know exactly what Mr. Gergen said on the 21st?

13 MR. GIUFFRA: Yes, we'll get to that in a
14 second. We can go to it now.

15 BY MR. GIUFFRA:

16 Q Mr. Gearan, let me show you a document
17 which has been marked Z237 through Z252 and ask you
18 if you could identify that.

19 MR. GIUFFRA: Off the record.

20 (Discussion off the record.)

21 MR. GIUFFRA: What is the last question?

22 (The reporter read the record as requested.)

1 THE WITNESS: That is a copy of a
2 transcript of a press briefing the chief of staff and
3 I gave in the White House briefing room on the 21st
4 of July.

5 BY MR. GIUFFRA:

6 Q Mr. Gearan, if I could just direct you to
7 some of the questions and answers. Directing you to
8 page Z245, the question is asked at the bottom of the
9 page.

10 "What is the specific goal of this
11 investigation that you're undertaking?

12 "Answer: This is a standard operating
13 procedure."

14 What did you mean by "standard operating
15 procedure"?

16 A I don't recall specifically in that sense.
17 I guess what I would have meant, my understanding was
18 that the investigation of Vince Foster's suicide was
19 being conducted in a standard procedure by the Park
20 Police and whatever the relevant authorities would
21 be.

22 Q Do you recall any discussion within the

1 White House with regard to the need to conduct the
2 investigation according to normal standard
3 procedures?

4 A I don't --

5 MR. SIMON: Do you know what he means by
6 "need"?

7 THE WITNESS: I can't recall a conversation
8 like that. I do recall that it was being conducted,
9 as I said, as -- whatever the standard would be given
10 the circumstances of this death.

11 BY MR. GIUFFRA:

12 Q Do you recall any discussion with anyone at
13 the White House with regard to following standard
14 operating procedure?

15 A I'm sorry?

16 Q Do you recall any discussion with anyone at
17 the White House with regard to standard operating
18 procedure?

19 MR. SIMON: You're indicating that the
20 statement that he makes on the top of page Z246,
21 where he said "this is a standard operating
22 procedure?" Do you know whether you discussed that

1 with anybody at the White House?

2 THE WITNESS: I can't recall. I guess what
3 I was trying to communicate to the press is that this
4 was being investigated in a standard way.

5 BY MR. GIUFFRA:

6 Q There's also a discussion on page Z245 at
7 the middle of the page.

8 "Question: David called Chief Langston and
9 Major Hines here today, I understand, from the Park
10 Service to brief on this investigation so far. Who
11 did they brief and what did they tell you, please?"

12 Your response is, "well, the agreement
13 today was, as I've said, at the request of the
14 counsel, the Justice Department is going to
15 coordinate the investigation."

16 Do you recall what you meant by "the
17 agreement today was at the request of the counsel"?

18 A No.

19 Q Do you recall any discussion with regard to
20 any sort of an agreement with the counsel's office
21 and the Department of Justice?

22 A That the Justice Department was going to

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1 coordinate the investigation?

2 Q Yes.

3 A I recall at some point being told that the,
4 as I've said before, that the Justice Department was
5 going to coordinate the investigation.

6 Q Was it your understanding that Mr. Nussbaum
7 had made the request that the Justice Department
8 coordinate the investigation?

9 A I don't know that it was a request from
10 Nussbaum or how the arrangement was worked out. I do
11 know that I was told that Justice would coordinate.

12 Q So you don't have any knowledge as to who
13 made the decision that Justice would coordinate?

14 A No.

15 Q Let me direct you to page Z249.

16 "Question: Has his office been searched at
17 all for clues and is it now being sealed as part of
18 the investigation?

19 "Answer: It's secured, yes. It's
20 secured."

21 Am I correct that response is based on the
22 conversation you had with Mr. Burton on the 20th?

1 A Yes. I don't know that -- again, whether
2 on the 21st we revisited this issue or not, I don't
3 know.

4 Q Next question, "and was it searched for
5 notes or clues or anything?"

6 "Answer: There was nothing remaining.
7 No."

8 Did you have any knowledge at the time of
9 this press briefing as to whether anyone, whether
10 anyone had entered Mr. Foster's office on the night
11 of his death or afterward to search for notes or
12 clues?

13 A I knew at some point, and I can't place
14 when I knew that, that Mr. Nussbaum went into Vince
15 Foster's office to perform a cursory search of
16 Foster's office to see if there was a note.

17 Q And you would have learned that prior to
18 this briefing?

19 A Yes.

20 Q Did you have any understanding as to
21 whether Mr. Nussbaum was accompanied by anyone else
22 during this visit to Mr. Foster's office?

1 A At this point (indicating)?

2 Q Yes.

3 A No.

4 Q On page Z250 --

5 MR. KRAVITZ: Can we just clarify for the
6 record, is this last set of questions and answers on
7 page Z249, is that what you were talking about before
8 when you said that you mentioned at the briefing
9 something about the office having been locked or
10 sealed? I mean --

11 THE WITNESS: I'm not sure I understand it.

12 MR. SIMON: I'm not sure I do, either. Are
13 you saying was this particular statement here
14 concerning the office being locked or sealed the
15 statement he's referring to? I think the only
16 problem with him answering that is that he may have
17 in fact -- if it was said at another time in this
18 briefing, he clearly -- he was clearly asked that
19 question during the press briefing. This could be
20 the case.

21 We haven't -- we have looked through this
22 but I can't remember as I look through it in the two

1 minutes that we had to identify the document whether
2 that question had been asked earlier, but this was
3 clearly the briefing at which he -- you might want to
4 ask him whether or not this is the briefing that he
5 can say it was asked.

6 MR. KRAVITZ: It's not my turn to ask
7 questions yet. The only reason I was bringing this
8 up was I don't want the record to be inaccurate or
9 misleading because I think Mr. Gearan said earlier
10 that someone asked him at the briefing on the 21st
11 whether the office was locked or sealed and his
12 statement here on page 249 uses the word "secured."
13 It doesn't use either the word "locked" or the word
14 "sealed." I just wanted to clear that up if it was
15 unclear on the record.

16 THE WITNESS: I think this was the briefing
17 I was referring to. As to the variance of "locked,"
18 "sealed" and "secured," I would be hard pressed to
19 point out any difference.

20 MR. GIUFFRA: You can ask your questions
21 when we're done.

22 BY MR. GIUFFRA:

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1 Q Z250.

2 "Question, "why has it been sealed?"

3 The answer is "that's part of the standard
4 procedure." So you would be using the words
5 "sealed," "locked," "secured" interchangeably?

6 A Yes.

7 Q That was your understanding as of the time
8 you gave this press briefing?

9 A Correct.

10 Q And by "secured" or "sealed," was it your
11 understanding that that meant people could not enter
12 Mr. Foster's office and remove documents?

13 A Correct, that's how I would understand it.

14 Q When you say at page 250 "that's part of
15 the standard procedure," what was the basis for that
16 statement?

17 A I don't recall whether I was told that
18 or -- I don't recall.

19 MR. GIUFFRA: Off the record.

20 (Discussion off the record.)

21 BY MR. GIUFFRA:

22 Q Let me show you a document that bears Bates

1 numbers Z418 to 432. If you could just briefly look
2 at this document.

3 (Witness reviewed the document.)

4 What does this document appear to be to
5 you, sir?

6 A This is a transcript of a press briefing by
7 the White House press secretary, Dee Dee Myers, on
8 the 22nd of July in the White House briefing room.

9 Q And I think you previously testified that
10 Ms. Myers reported to you.

11 A That's right, yes.

12 Q At this time?

13 A Yes.

14 Q Do you recall speaking to her prior to this
15 briefing?

16 A I don't specifically but frequently we
17 would share information.

18 Q There is a discussion at page Z423 with
19 regard to review of documents in Mr. Foster's
20 office. Does reading this transcript in any way
21 refresh your recollection as to what you might have
22 known about that review procedure?

1 MR. SIMON: Just for the record, Mr. Gearan
2 does have in front of him page 423. In reviewing the
3 transcript, however, you had suggested that he only
4 read the portions of the transcript that had been
5 highlighted in yellow. To the extent that there's
6 any other discussion in the transcript, that wasn't
7 highlighted, he probably didn't read it.

8 MR. GIUFFRA: That's fine.

9 MR. SIMON: Thanks.

10 MR. GIUFFRA: We're just trying to speed --

11 MR. SIMON: Absolutely. I appreciate you
12 doing that. I just wanted to make it clear just in
13 case there was something in there.

14 BY MR. GIUFFRA:

15 Q Does reviewing this transcript refresh your
16 recollection as to any discussions you might have had
17 with anyone at the White House with regard to the
18 procedure that would be used to review the documents
19 in Mr. Foster's office?

20 A No.

21 Q I think you previously testified that a
22 note was found in Mr. Foster's briefcase on July 26;

1 is that correct?

2 A That's my understanding, yes.

3 Q What do you recall about the discovery of
4 that note?

5 A Well, I was not informed until, I believe,
6 the 28th of July about the discovery of the note.
7 And at that point, by the time I was made aware of
8 it, it had already been turned over to the Justice
9 and Park Police.

10 Q Do you have any recollection of the
11 conversation -- who told you about the discovery of
12 the note?

13 A My recollection is David Gergen told me
14 that a note was found.

15 Q Do you recall anything more about that
16 conversation with Mr. Gergen?

17 A Well, again, by that point I was told that
18 a note was found and that it was already turned
19 over. And the question that we were dealing with by
20 the time I was brought into this is what the
21 appropriate course of action would be for the White
22 House in both acknowledging the note and confirming

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1 it had been turned over and what would be appropriate
2 in terms of the contents of the note.

3 Q Turning to the first of those, the issue
4 arose as to when you would acknowledge that a note
5 was found. What do you recall --

6 MR. SIMON: You're talking about
7 acknowledge to the press.

8 BY MR. GIUFFRA:

9 Q The press, right. What do you recall?

10 A I can recall a sense on the part of many of
11 us in the White House that it was very important
12 because there was an ongoing investigation, because
13 we were mindful of events in recent months at the
14 White House in terms of the travel office, that this
15 be -- that we need to seek guidance from the Justice
16 Department and approval or clearance on what the
17 White House would formally do, given that this was an
18 investigation in progress. That's what I recall most
19 about a sense of trying to determine what was -- what
20 could be approved or signed off by the relevant law
21 enforcement officials.

22 Q Do you recall any discussions with the

1 Department of Justice with regard to the disclosure
2 of the note?

3 A Yes. I recall a few conversations where we
4 were trying to get their guidance or approval on what
5 was the appropriate thing to do.

6 Q Who would have been a party to those
7 conversations? Are these group discussions?

8 A I recall Mr. Gergen involved, Dee Dee Myers
9 was involved. I believe Mr. Burton, in that period
10 of time. There may have been others.

11 Q Would Mr. Nussbaum have been involved?

12 A He may have been. He was aware of
13 conversations with Justice.

14 Q Do you recall who was speaking to Justice?

15 A I recall a conversation with Phil Heymann
16 at Justice.

17 Q Was this a conversation that you had?

18 A That I had. I believe I was on the phone
19 with David Gergen in one instance and perhaps Burton
20 in another instance. I can't recall specifically.

21 Q What do you recall about those
22 conversations with Mr. Heymann?

1 A I recall that we were wanting to get a
2 sense of what we should do, because it was an ongoing
3 investigation, what should the White House say.
4 Again, it had been found, it had been turned over.
5 The only question at this point in time is when and
6 by whom and to what extent this note would be brought
7 into the public domain.

8 Q And do you recall anything that Mr. Heymann
9 said?

10 A Well, my recollection is that there was an
11 evolving point of view from the Department of
12 Justice. I think at the beginning his recommendation
13 is that the White House should release the note and
14 then a sense that it should be released in the normal
15 course of events. And I believe he informed us that
16 the Park Police procedure would be to do so within
17 five to eight days. And then finally my conclusion,
18 I believe, after a press inquiry that there could be
19 confirmation of the note and that it was turned over
20 to the law enforcement officials in a generalized
21 description of the note.

22 Q Do you recall what was finally done?

1 A That day?

2 Q Yes.

3 A My recollection is that there was
4 confirmation by the White House, I believe it was
5 following a leak received by CBS radio that indeed
6 there was a note found, that it was work-related and
7 that it went to Vince Foster's state of mind and that
8 was all that was said from the White House.

9 Q These conversations with Mr. Heymann, were
10 these conference calls?

11 A I recall -- I don't know about a conference
12 call, but I believe a speakerphone and a few
13 participants.

14 Q Do you recall -- never mind.

15 Do you recall the time period in which the
16 calls occurred? Was it over the course of the entire
17 day, over an hour, over two hours?

18 A It was over a few hours.

19 Q Do you recall any discussion with anyone at
20 the White House or the Justice Department with regard
21 to a delay or any delay in confirming that this note
22 had been found?

1 MR. SIMON: Counsel, I'm not sure at
2 what -- at what point in time?

3 MR. GIUFFRA: Strike the question. Strike
4 the question.

5 BY MR. GIUFFRA:

6 Q It's your understanding that the note was
7 found on the 26th of July; correct?

8 A That's what I understand.

9 Q Its existence was confirmed on the 28th;
10 correct?

11 MR. SIMON: No.

12 THE WITNESS: It was confirmed to me.

13 BY MR. GIUFFRA:

14 Q Confirmed to you on the 28th. When was it
15 confirmed publicly?

16 A On the evening of the 28th, I believe.

17 Q Do you recall whether there was any concern
18 expressed by anyone at the White House with regard to
19 the delay between the public confirmation of the
20 note's existence and the time -- when the note was
21 found?

22 A One more time, I'm sorry.

1 MR. GIUFFRA: Can you read it back.

2 (The reporter read the record as requested.)

3 THE WITNESS: I can recall conversations
4 that day in my view that --

5 MR. SIMON: Which day?

6 THE WITNESS: On the 28th that we were
7 seeking guidance on what the White House should be
8 doing, what the appropriate release would be, given
9 that this was an investigation. I think most people
10 at the White House felt that we needed that approval
11 or guidance before we did anything in terms of --
12 anything that we would say that day.

13 MR. SIMON: How did that relate to the
14 delay? That's the question.

15 THE WITNESS: The delay between when it was
16 found?

17 BY MR. GIUFFRA:

18 Q And when it would be publicly disclosed or
19 publicly confirmed.

20 A Well, again, we were aware that there -- it
21 was a responsibility to the press and to the public
22 to tell as much information as is responsible in this

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1 instance. The White House had preceded in a history
2 of other incidents where that was not the case so
3 there was a very clear sense that that was
4 important.

5 Q Do you recall specific discussions about
6 this delay?

7 A I'm just hesitating. I assume you mean the
8 delay from when it was found and when it was given to
9 the Justice Department?

10 Q Correct, yes. Let's go to when it was
11 disclosed. Let's go back. Do you recall any
12 conversations with anyone at the White House in which
13 anyone expressed any concern about the delay between
14 the time the note was found and the time it was
15 publicly -- its existence was publicly confirmed?

16 A I think we understood that we would have to
17 explain all aspects of the finding of this note, how
18 it was found, who found it, in any time sequencing,
19 that this was a story of significant press interest.
20 I don't know if that's responsive to your question,
21 but there was an understanding, I think, on our part
22 that all elements of this would have to be explained

1 as best we could.

2 Q Do you recall a number of conversations on
3 the subject of this note?

4 A Yes. Again, if I might, all after it was
5 turned over.

6 Q Do you know when the Foster note was turned
7 over to the Department of Justice?

8 A My understanding is that on the evening of
9 the 27th, the Attorney General and her deputy came to
10 the White House around 6:00.

11 Q Do you know when the note was precisely
12 found?

13 A My understanding is it was -- precisely,
14 no. My understanding is that it was found in late
15 afternoon of the 26th.

16 Q And do you know when law enforcement
17 officials were first told of the note's existence?

18 A No. I know that the Attorney General and
19 the deputy came in at 6:00 and then --

20 Q Was that the first time anyone was told of
21 the note's existence outside of the White House?

22 A I'm not aware of any other conversation.

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1 Q Do you know why this delay occurred in
2 informing law enforcement officials as to the note's
3 existence?

4 A My understanding is that the President,
5 Mr. McLarty and Gergen were traveling that day. The
6 President had a schedule and he was going to be
7 informed of this. And Mrs. Foster was in transit
8 that day, returning to Washington, and that there was
9 a judgment made to allow both of those parties to be
10 made aware of the note before it was -- before they
11 met with the Attorney General.

12 Q Do you know when the President was advised
13 of the note's existence?

14 A It was my understanding it was in the
15 afternoon of the 27th.

16 Q Do you know when Mrs. Foster was advised of
17 the existence?

18 A No, I don't. I know she was coming back.
19 I don't know what time.

20 Q Did you ever discuss the discovery of the
21 note with Mr. Nussbaum?

22 A I don't recall any personal conversation

1 with Nussbaum regarding the note.

2 Q Do you recall discussing the discovery of
3 the note with Mr. Neuwirth?

4 A Yes, I can remember him explaining it to me
5 and others, as I recall. I don't know if this was an
6 individual conversation, but the circumstances in
7 which he found the note I understood from him.

8 Q What was your understanding of the
9 circumstances?

10 A My understanding is that he was packing up
11 documents and personal effects in Vince Foster's
12 office to be sent to his lawyer. And there was
13 something to do with a picture of the President and
14 Vince Foster's daughter and whether to secure it or
15 to make sure he didn't bend it in some way, put the
16 briefcase in such a way to fit into this box that
17 caused pieces of paper to fall out of one of --
18 somewhere in the briefcase, the side pocket. That's
19 when he discovered these pieces of paper.

20 Q Did he indicate where in the briefcase the
21 pieces of paper were?

22 A My understanding is in some side panel of

1 this leather briefcase.

2 Q At the time the note -- strike that.

3 At the time you learned of the note's
4 existence, do you recall any discussion with anyone
5 at the White House as to why the note was not found
6 during a review of materials in Mr. Foster's office
7 by Mr. Nussbaum?

8 A My understanding is that it was -- they
9 were torn pieces of paper in -- or at the bottom of
10 this briefcase and were not apparent during that
11 search and only fell out when the briefcase was
12 turned over.

13 Q But do you recall any discussion in which
14 anyone was speculating as to why Mr. Nussbaum had not
15 found the note when he examined the briefcase?

16 MR. SIMON: Excuse me, if I could interrupt
17 here, I think you said he examined the briefcase?
18 Were you aware that Mr. -- were you told anything
19 about Mr. Nussbaum previously examining the
20 briefcase?

21 THE WITNESS: No.

22 BY MR. GIUFFRA:

1 Q Are you aware that Mr. Nussbaum examined
2 the briefcase?

3 A During the search?

4 MR. SIMON: Which search?

5 BY MR. GIUFFRA:

6 Q Let's go back here. When the note was
7 found -- strike that, too.

8 At the time the note was found, were you
9 aware that Mr. Nussbaum had conducted a review of
10 documents in Mr. Foster's office.

11 MR. SIMON: Are you referring to the Park
12 Police thing?

13 MR. GIUFFRA: Yeah.

14 THE WITNESS: Yes, yes.

15 BY MR. GIUFFRA:

16 Q What were you aware of that Mr. Nussbaum
17 had done?

18 A My understanding is that with a variety of
19 different law enforcement officials there, he had
20 gone through Vince Foster's office and separated the
21 various files and documents into categories of --
22 categories that he had established. And the Park

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1 Police was there, Justice, the FBI, the Secret
2 Service and then I believe Mr. Foster's personal
3 attorney, family attorney.

4 Q When did you learn that this review had
5 occurred?

6 A Again, as I've said before, I don't know
7 when I learned that the search was going to take
8 place, how much in advance of it or if at all, but
9 during this period of time.

10 Q Were you aware that Mr. Nussbaum had taken
11 documents from Mr. Foster's briefcase and separated
12 those out as the various categories?

13 A No. I was aware that he had done his
14 office but this was not found, this note was not
15 found in any search at that time.

16 Q When did you learn that Mr. Nussbaum had
17 removed documents from Mr. Foster's briefcase during
18 the course of this review?

19 A I'm not sure that I ever knew that he
20 removed documents from the briefcase, you know, in
21 specific. They had gone through his office, through
22 the end tables and through -- whether things came out

1 of this briefcase separate from it, I don't know that
2 I ever recall being told that.

3 Q At the time the Foster note was found, did
4 anyone indicate to you that Mr. Nussbaum had taken
5 any action whatsoever with regard to this briefcase
6 at the time of the review?

7 A No, I don't believe so.

8 Q Did there come a time at which you learned
9 that Mr. Nussbaum had removed papers from
10 Mr. Foster's briefcase?

11 MR. KRAVITZ: I think he's already answered
12 that.

13 THE WITNESS: No.

14 MR. GIUFFRA: Off the record.

15 (Discussion off the record.)

16 BY MR. GIUFFRA:

17 Q At the time the note was discovered, do you
18 recall any discussion whatsoever with anyone at the
19 White House regarding why the note was not found
20 sooner?

21 A My understanding is that because it was
22 torn into pieces and because of its position in the

1 briefcase, it was not spotted during this search,
2 that in the transport of this briefcase into the box,
3 because of the laws of physics involved, that it fell
4 out. That was the understanding that I had from that
5 time.

6 MR. KRAVITZ: I don't mean to interrupt --

7 MR. GIUFFRA: Do you want to go off the
8 record?

9 MR. KRAVITZ: No, I don't want to go off
10 the record. I just want to make sure that you
11 understood the question because the question was at
12 the time that the note was discovered, did you have
13 any understanding about why it hadn't been found and
14 I thought you testified --

15 MR. SIMON: We had interpreted --

16 THE WITNESS: All of this is after the
17 28th.

18 MR. KRAVITZ: I thought you testified you
19 didn't even hear about it until the 28th.

20 THE WITNESS: That's correct.

21 MR. KRAVITZ: I just want to make sure that
22 if you mean you didn't know it on the 26th, that the

1 record isn't unclear.

2 THE WITNESS: That's correct. I first
3 learned of the existence of the note on the 28th.

4 BY MR. GIUFFRA:

5 Q Have you ever discussed the discovery of
6 this note with Mr. Burton?

7 A Mr. --

8 Q Burton.

9 A I don't recall an individual conversation
10 with Burton. He was, as I mentioned before at the
11 time when we were discussing how to handle the public
12 disclosure of this at that time, whether there was a
13 conversation associated with that I don't recall.

14 Q Did Mr. Burton ever indicate to you that he
15 was present during the review of the documents in
16 Mr. Foster's office conducted by Mr. Nussbaum?

17 A No.

18 MR. SIMON: With the Park Police?

19 THE WITNESS: On the 22nd?

20 BY MR. GIUFFRA:

21 Q Yes.

22 A No.

100

1 Q Did you ever speak with Mr. Gergen about
2 the discovery of this note?

3 A Well, he is the one that told me about it,
4 as best as I can recall, and you know, I can't say a
5 specific conversation, but during the course of those
6 few days, we were trying in earnest to determine how
7 we would deal with seeking the guidance from Justice
8 and approval from Justice on how to do it and a lot
9 of those conversations were with David Gergen.

10 Q Do you know when Mr. Gergen learned of the
11 existence of this note?

12 A I don't know. I do know he was traveling
13 with the President and Mr. McLarty the day before. I
14 have an understanding that he would have learned
15 during his travel.

16 Q So it's your understanding he learned of
17 the note's existence on the 26th?

18 A I don't know when he learned of it
19 specifically, but I'm just saying he was traveling
20 with Mack McLarty and the President and I don't know
21 what the chain of information flow from the White
22 House to the road was.

1 Q Do you know when the President first was
2 given an opportunity to review this note?

3 A No, I'm not aware that he reviewed the
4 note, I mean in a reviewing context.

5 Q Was it read to him?

6 A I don't know that it was read to him or
7 summarized to him. My recollection is it was that
8 afternoon of -- I guess that would be the 27th.

9 Q Was the President at the White House at
10 that time?

11 A He was traveling on the 27th.

12 Q Do you know if Mr. Gergen ever spoke with
13 anyone at the Department of Interior with regard to
14 the Park Police's investigation into Mr. Foster's
15 death?

16 A No, I do not know.

17 Q Do you know a Thomas Collier?

18 A Yes, I do.

19 Q Would it be your testimony that you're not
20 aware of any conversations between Mr. Gergen and
21 Mr. Collier with regard to the investigation into
22 Mr. Foster's death?

1 A I'm not aware of those conversations. Can
2 I take a quick break?

3 MR. GIUFFRA: Sure.

4 (Recess.)

5 BY MR. GIUFFRA:

6 Q Mr. Gearan, did Mr. Gergen ever express to
7 you any concern about how the investigation into the
8 death of Mr. Foster was being conducted?

9 A Did Gergen express his personal concern?

10 Q Yes.

11 A I don't recall that, no.

12 Q And when you say you don't recall, do you
13 mean by that you have absolutely no recollection
14 whatsoever?

15 A Correct.

16 Q No inkling that he might have expressed any
17 concern to you about how the investigation was being
18 conducted?

19 A He may have. I don't have any recollection
20 of it.

21 Q Did anyone else at the White House ever
22 express a concern to you about how the Park Police

1 investigation into Mr. Foster's death was being
2 conducted?

3 A No, I'm not aware of any concerns
4 expressed.

5 Q Do you ever recall any concern being
6 expressed about the delay between the time the Foster
7 note was discovered and the time at which it was
8 disclosed to law enforcement authorities?

9 A On whose part?

10 Q Anyone at the White House.

11 A I recall a concern that this would be a
12 question that we would need to explain but that --

13 Q Do you recall who raised the concern?

14 MR. SIMON: Did you say it was a concern or
15 a question?

16 BY MR. GIUFFRA:

17 Q Concern.

18 A No, I don't, but I recall that there was a
19 sense that this was because of the nature of the
20 note, because of its interest on the part of the
21 press that we would need to explain that period of
22 time, but that I think people at the White House felt

1 that the instance of informing the President and the
2 Foster family was an understandable response.

3 Q Normally when the President travels, he's
4 reachable by telephone; is that correct?

5 A Yes.

6 Q Do you recall any discussion as to why
7 someone just didn't pick up the phone and tell the
8 President about the note by telephone?

9 A No.

10 Q Do you have any knowledge as to whether the
11 First Lady ever saw this note?

12 A No.

13 Q Did you ever discuss the note with Maggie
14 Williams?

15 A I recall her during the conversations in
16 the aftermath of this of how we would seek the
17 guidance from Justice on both the acknowledgment,
18 confirmation of the note, and the release of the
19 contents, and she was a part of those conversations.
20 And afterwards on matters associated with the actual
21 elements of the writing, what he might have meant,
22 but not concerning the discovery or anything like

1 that.

2 Q I would like to show you a document which
3 has been marked Z504 through 506. I want to thank
4 you and your counsel for bringing the originals, or
5 at least better copies than we received.

6 MR. SIMON: Just for the record so we can
7 distinguish it, there is a copy of this document that
8 I see counsel has in his possession which bears, it
9 looks like a universal product code and a number
10 underneath it with the number Z504 to I believe 506.
11 The copy that is being shown to my client is a copy
12 that we did in fact provide today when asked by White
13 House counsel at the request of the Committee to see
14 if we could get better copies. We did it on short
15 notice and I think this is the best copy we could lay
16 our hand on in the time that we had. This document
17 that's been shown to Mr. Gearan has a handwritten
18 Z504 on it.

19 BY MR. GIUFFRA:

20 Q Mr. Gearan, what is this document, Z504 to
21 506?

22 A This is a document in my handwriting that

106

1 summarizes a chronology, starting from the period
2 when Vince Foster's office was searched on Thursday
3 through the period of the acknowledgment of the note,
4 including finding of the note. So it was my personal
5 writing based on conversations where I could obtain
6 this information.

7 Q Do you recall when you would have prepared
8 these notes?

9 A I can't say specifically because it is
10 undated. I would suspect that it was in preparation
11 for press questions once the note was put into the
12 public domain that we would need to understand the
13 facts associated with both the search and the
14 discovery of the note. I was mindful that this would
15 be -- there would be many press questions associated
16 with it.

17 Q In preparing for those press questions, did
18 you undertake to question various persons with
19 knowledge about these facts?

20 A I wouldn't characterize it quite like
21 that. I tried to the best of my ability to get a
22 reasonable chronology from people involved in

1 circumstances that could shed light on it. This was
2 not meant to be an investigation or anything more
3 than the simple notes here.

4 Q But in preparing these notes, you would
5 have spoken to other White House officials?

6 A Yes.

7 Q And in preparing, can we call it a
8 chronology? Is that -- or just the notes? It's up
9 to you.

10 A I would call it notes.

11 Q In preparing these notes, you have
12 attempted to obtain accurate information with regard
13 to the events discussed in the notes?

14 A Yes, because my responsibility is to
15 provide accurate information to the press.

16 Q And the notes would be used to provide that
17 information?

18 A Yes.

19 Q Do you recall whether these notes were
20 prepared in one sitting or over a period of time?

21 A I don't recall. They seem to be the same
22 pen, but I can't tell you that with any assurance.

1 Q Is it your practice to take notes in
2 preparing for press briefings?

3 A Oh, in preparing for press briefings?
4 Yeah. Or to share with Dee Dee Myers. I mean, it
5 would be the practice to get information to answer
6 press questions, and I would more typically than not
7 write it down.

8 Q Would your practice with Ms. Myers be you
9 would both try to ascertain facts and then discuss
10 those facts with each other?

11 A Yes, yes, frequently.

12 Q Just reading across the top of the notes,
13 if you could just read.

14 A Okay. "Thursday, two Park Police, two FBI,
15 two Department of Justice, two United States Secret
16 Service. Bernie, Cliff, Steve, Bill, Hamilton's
17 partner Michael Spafford." I would understand my
18 notes to be indicating who was present at the search
19 of Vince Foster's office.

20 Q And the next sentence?

21 A "Bernie went through all files and
22 characterized them, described" -- an arrow pointing

1 down -- "separated into files. All agreed documents
2 related to Vince Foster's work, not within the scope
3 of the investigation."

4 Q And what would be your understanding as to
5 these notes?

6 A That the search was conducted by Bernie
7 Nussbaum, that he went through these files in the
8 presence of the aforementioned individuals, that he
9 characterized them and described them in separating
10 them into files.

11 Q That would be the documents?

12 A Correct. And that everyone present agreed
13 that if they -- if they related to Vince's work, they
14 would not be considered within the scope of the
15 ongoing investigation.

16 Q The next?

17 A "Leather briefcase, they agreed all
18 personal items given to Jim Hamilton's partner.
19 Insurance papers" -- that would be pictures -- "and
20 empty briefcase."

21 Q What would that indicate to you, this
22 entry?

1 A That in the instance that there were things
2 that were found that were personal items to Vince
3 Foster, pictures that he had, insurance papers and
4 briefcases, I don't know whether that is saying
5 there's two briefcases or not, one leather briefcase,
6 one empty briefcase, I can't tell you whether that's
7 separated or not, but they would be given to his
8 personal lawyer's partner.

9 Q Do you recall who you might have
10 obtained -- strike that question.

11 Do you know what the notation "empty
12 briefcase" would refer to?

13 A I don't. I take this whole paragraph to
14 mean that there were personal effects of Vince Foster
15 that they agreed were personal effects, they agreed
16 "all personal items would be given to Hamilton's
17 partner," who I note above, Michael Spafford, was
18 present. The things included within that, I would
19 suspect my notes mean, are insurance papers, pictures
20 and I suspect photographs and an empty briefcase.

21 Q Just read the next sentence, notation.

22 A "Filled a box but didn't take briefcase and

1 other personal effects," that it was filled, but
2 Spafford did not take those personal effects out with
3 him that day is how I would read that.

4 Q So it would be your understanding just from
5 reading the notes that Spafford would have taken some
6 of the documents with him after the review process
7 was concluded on this Thursday?

8 A No. In fact, my understanding from reading
9 these notes is that he didn't take them, "but didn't
10 take the briefcase and other personal effects."

11 Q Your understanding is he didn't take
12 anything with him after the review?

13 A That's how I would read that.

14 Q And the next notation?

15 A "Department of Justice and Park Police, ask
16 the counsel's office to review the computer and phone
17 logs."

18 Q And the next entry?

19 A "Two hours," I suspect that's how long it
20 took. "Personal/work related/questionable." Those
21 were the piles.

22 Q That would be the piles that the documents

1 were placed into?

2 A Apparently, that's how I would read that.

3 Q And the next one?

4 A "All the different shelves and the drawers
5 of the end tables." I suspect that's meaning that's
6 all the places that were looked through, all the
7 shelves in Vince's office, including the drawers of
8 the end tables near his sofa.

9 Q The next entry?

10 A "Briefcase, removed files. BN held up."
11 Bernie Nussbaum. "They asked questions about whether
12 the briefcase was taken home." There was no routine
13 involved in this is what I would suspect that mean.

14 Q What would you take this entry to mean?

15 A That they looked through his briefcase,
16 removed files. I don't know if this is "BN held up"
17 is a reference to the previous files mentioned or
18 just generally that he held up the files, all of the
19 different files. "They asked questions," "they"
20 meaning the participants there, but whether the
21 briefcase was taken home, and I guess the
22 parenthetical is that that was the answer given, and

1 I don't know by whom, that there was no routine
2 involved.

3 Q Does the reference to "BN held up," could
4 that refer to the briefcase?

5 A It could. I'm uncertain based on these
6 notes, or my recollection.

7 Q And the next entry?

8 A "Locked after search (new lock put on
9 Wednesday p.m.)"

10 I assume that means his office then was
11 locked after the search.

12 Q Just the entry for Thursday on page Z504,
13 do you recall whom you spoke to to prepare these
14 notes?

15 A I don't. Normally this would have been
16 someone involved with it. I believe it was Cliff
17 Sloan, but I cannot say that with a total assurance.

18 Q Do you recall speaking to Mr. Nussbaum in
19 the course of preparing these notes?

20 A I remember dealing more during this period
21 with Cliff Sloan and, you know, my reference to BN,
22 whether -- it seems like the third person. I don't

1 know.

2 Q The next entry?

3 A Monday, "Neuwirth asked to inventory
4 working files in the morning by Bernie. Instructed
5 that the personal items -- that personal items
6 delivered to Jim Hamilton pursuant to instructions.
7 During the day personal items put in box."

8 Q What does that entry indicate to you?

9 A It indicates that at the instruction of
10 Bernie Nussbaum, Steve Neuwirth was asked to
11 inventory the files, as well as being instructed that
12 the personal items would be delivered to Jim Hamilton
13 and during the day as he was going through this, he
14 put the personal items in the box that would go to
15 Jim Hamilton.

16 Q And the next entry?

17 A "At approximately 4:00 p.m. pictures and
18 personal papers put in box. Black and white photos
19 of Vince Foster, daughter and President of the United
20 States. Turned leather briefcase over to" and this
21 is quite unclear. I believe it's "squeeze into box"
22 is what is stated here, which I would take to mean

1 that around 4:00, in putting the various pictures and
2 personal papers into the box that would go to
3 Hamilton, including a black and white photo of
4 Foster's daughter and the President, he turned the
5 leather briefcase over.

6 Q "He" meaning Neuwirth?

7 A He, Neuwirth, correct, to squeeze it into
8 the box.

9 Q And then turning to page Z505.

10 A "Yellow paper fell out. Scraps brought
11 into Bernie Nussbaum office (he wasn't there) and
12 pieced together."

13 Q Stop right there. What does that indicate
14 to you?

15 A I take it that this is still Neuwirth, that
16 in squeezing this briefcase into the box, yellow
17 paper fell out. The scraps that fell out were
18 brought into Nussbaum's office, which was adjacent to
19 Foster's office, and he wasn't there. "He,"
20 Nussbaum, and Neuwirth pieced it together to form the
21 note.

22 Q And the next entry?

1 A "Saw makings of note of Vince Foster. 20
2 minutes to put together. Pieces in envelope until
3 given to Park Police. Put in safe." Which I would
4 understand to mean that Steve Neuwirth saw the
5 makings of a note with these scraps of paper, that it
6 took him 20 minutes to piece this grouping together
7 into the total page, that the individual pieces were
8 put in an envelope until they were given to the Park
9 Police and put in a safe.

10 Q And the next entry?

11 A "Monday p.m., reviewed with chief of staff,
12 staff director Bill Burton (Mack McLarty and
13 President of the United States in Chicago). Spoke
14 with Mack McLarty on the phone."

15 Q Do you have any idea who would have spoken
16 to Mr. McLarty?

17 A I don't. That's unclear from my notes.
18 And I don't recall.

19 Q Would you have prepared this entry from
20 conversations with Mr. Neuwirth?

21 A It could have been Mr. Neuwirth. I don't
22 recall.

1 Q Do you recall speaking to Mr. Neuwirth
2 during this time period?

3 A Yes, but I don't know whether this specific
4 entry was prepared with him. I do recall hearing his
5 explanation of the facts.

6 Q Did Mr. Neuwirth ever express any surprise
7 to you as to the discovery of the note?

8 A Surprise meaning what?

9 Q Did he ever express to you any surprise
10 that the note was not found during the course of the
11 review by Mr. Nussbaum?

12 A No, I don't recall that.

13 Q Did you ever have any discussions with
14 anyone at the White House in which anyone speculated
15 that the note was placed in the briefcase after
16 Mr. Nussbaum had reviewed the documents in
17 Mr. Foster's office?

18 A No.

19 MR. GIUFFRA: Could you read back the
20 question and answer.

21 (The reporter read the record as requested.)

22 BY MR. GIUFFRA:

1 Q Let's go to the next entry.

2 A "Tuesday. Mack McLarty tells President of
3 the United States late afternoon, 6:00 p.m. (never
4 read the note. Aware of description). Bernie tells
5 Lisa and John Sloan and Hamilton."

6 Q What does this note indicate?

7 A I would understand that to mean that the
8 President was informed in the late afternoon by the
9 chief of staff, Mack McLarty. Whether it was late
10 afternoon or 6:00 is not clear here, that the
11 President never read the note but was aware of the
12 description of the note, that Bernie Nussbaum told
13 Lisa Foster and John Sloan, who I don't think I know
14 who that is, and I would take Hamilton to mean Jim
15 Hamilton, the Foster family attorney.

16 Q Let's do the next entry.

17 A "Deputy Attorney General and Attorney
18 General come to the White House. Gave information.
19 They say turn over to Park Police. Heymann calls
20 head of Park Police. Detective sent over. Park
21 Police takes note."

22 Q What does this entry indicate to you?

1 A It indicates that the deputy Attorney
2 General, Mr. Heymann and Attorney General Reno came
3 to the White House, they were given this information
4 about the note, I understand this to mean. They,
5 meaning Heymann and Reno, take to turn it over to the
6 Park Police. Heymann calls the head of the Park
7 Police and a detective is sent over and the Park
8 Police takes the actual note.

9 Q On the Tuesday?

10 A On Tuesday.

11 Q Do you have any recollection of any
12 discussions with anyone in the White House with
13 regard to any disputes between anyone at the White
14 House and anyone for the Department of Justice with
15 regard to the investigation into Mr. Foster's death?

16 THE WITNESS: Can you repeat it?

17 MR. GIUFFRA: Please read it back.

18 (The reporter read the record as requested.)

19 MR. SIMON: The problem I have is disputes
20 between -- anyone in the White House and anyone at
21 the Justice Department.

22 MR. GIUFFRA: Let me see if I can say this

1 correctly and we can go from there.

2 THE WITNESS: Aware based on a phone call
3 from Deputy Attorney General Heymann about concerns
4 about -- that were expressed to Mr. Nussbaum and
5 to -- in this phone conversation about the
6 investigation and the conduct of Mr. Nussbaum, you
7 know, if that's responsive, if that's where you're
8 going. I'm aware of that conversation.

9 I'm not aware of, I don't think, other
10 conversations about White House concerns about
11 Justice concerns, if that was the question.

12 BY MR. GIUFFRA:

13 Q What do you recall Mr. Heymann telling you
14 with regard to Mr. Nussbaum during this conversation?

15 A I recall him telling me, and I believe
16 Mr. Gergen at that point on the same conversation --

17 Q Do you recall when the conversation was?

18 A This was after the note was found and sent
19 and in conversations with Justice during that period
20 of time in determining what was sanctioned White
21 House -- what information we could give out on the
22 part of the White House.

1 MR. SIMON: Counsel, I think the notes of
2 the conversation to which the witness may be
3 referring to were provided to you. We gave the
4 better copies of it. Maybe that's -- that's probably
5 why you're asking about it so you can get to the next
6 note.

7 MR. KRAVITZ: Are we abandoning the
8 chronology?

9 MR. GIUFFRA: No. I just wanted to ask him
10 at this point what his recollection was before he
11 looked at the note.

12 MR. SIMON: Okay, fine.

13 BY MR. GIUFFRA:

14 Q Go ahead.

15 A What's the question?

16 Q What else do you remember about the
17 conversation with Mr. Heymann?

18 A That again it was in this period when we
19 were seeking guidance from Justice in that he
20 indicated to us that he had told Mr. Nussbaum that
21 there were concerns on the part of law enforcement
22 officials about the nature of the conduct during the

1 search process and that there should be displayed as
2 much openness to the investigators as possible in all
3 future dealings.

4 Q And he indicated to you that there had not
5 been openness showed toward the investigators
6 previously?

7 A He indicated that there was a concern
8 expressed.

9 Q By whom?

10 A By law enforcement officials.

11 Q Did he say specifically?

12 A I don't recall whether it was the Park
13 Police or other jurisdictional authorities that had
14 expressed it.

15 Q Do you recall whether Mr. Gergen was
16 concerned at all by what Mr. Heymann had told him
17 about Mr. Nussbaum's handling of the review of the
18 documents?

19 A No. I mean, I do know that in this
20 conversation that Heymann said that he had had heated
21 discussions, I think was his term, with Mr. Nussbaum
22 on it, so I was aware that he had expressed this

1 personally to Mr. Nussbaum but --

2 Q Did you ever speak to anyone else at the
3 White House about what Mr. Heymann had told you?

4 A I don't -- I don't recall. I may have
5 talked to Dee Dee Myers about it. I don't recall
6 doing that.

7 Q Do you know if Mr. Gergen spoke to anyone
8 at the White House about what Mr. Heymann had said
9 about Mr. Nussbaum?

10 A I don't know.

11 Q Let's go back to the chronology. We
12 were --

13 MR. KRAVITZ: Can we have the record
14 reflect that we're --

15 BY MR. GIUFFRA:

16 Q Z505.

17 A Again, under Tuesday, I believe this says
18 "we asked DOJ for guidance on how White House
19 proceeds."

20 Q And then the next entry?

21 A "Wednesday. Heymann says no real
22 obligation to disclose. We asked to review Park

1 Police procedure."

2 Q What does that indicate to you?

3 A I think this is, as I've mentioned before,
4 the conversations that the White House initiated or
5 the White House was concerned about to get the
6 guidance from Justice on how to proceed. In a
7 conversation on Wednesday, Heymann is reporting that
8 there's no real obligation to disclose, meaning
9 disclose the note.

10 Q To whom?

11 A To the press. This is all press-related
12 questions. We asked to review what is the Park
13 Police procedure.

14 Q And then the next entry?

15 A I don't know if this is Heymann or what the
16 first words are, but it's "says it's Park Police
17 policy to release in five or six days."

18 Q And the next entry?

19 A "Heymann: Park Police prefers the White
20 House say nothing until authenticated. Then at that
21 point they acknowledge the note and characterize."

22 Q And then the next page, 506?

1 A "CBS press call. We checked with Heymann.
2 Heymann calls back Park Police, who then say it's not
3 a normal inquiry. Therefore it's okay to
4 acknowledge. No clear cut yes or no on whether to
5 release."

6 Q Just to be certain about this, when you say
7 "no clear cut yes or no on whether to release," it
8 would be your testimony that that sentence would have
9 been written before the decision was made or would
10 these notes have been prepared after the decision was
11 made to release the notes?

12 A My guess is it was, these are afterwards
13 but that these -- all of these notes for Thursday
14 show -- I'm sorry, Wednesday show the evolving nature
15 of the guidance that we were provided that I
16 testified earlier about.

17 MR. SIMON: Just so the record is clear,
18 when the question was asked as to whether or not this
19 was before or after they were released, you're
20 talking about here released to the public.

21 THE WITNESS: Oh, yeah, yeah.

22 MR. SIMON: The release of the contents to

1 the public by the Park Service on August 10?

2 THE WITNESS: Yeah. Release, we should be
3 clear, release of the contents versus release of the
4 fact that the note was found.

5 BY MR. GIUFFRA:

6 Q When were these prepared?

7 A As I've said, I don't know because they're
8 undated. I would suspect they were in the period of
9 immediately after the -- or soon after the note was
10 found in preparation for briefings as to questions
11 that would ensue on the chronology.

12 Q So that this would have been written prior
13 to the disclosure of the note's existence?

14 MR. SIMON: No.

15 MR. GIUFFRA: Off the record.

16 (Discussion off the record.)

17 BY MR. GIUFFRA:

18 Q What would be your best estimate as to the
19 time these notes were prepared?

20 A My best estimate would be that they would
21 have been after the initial press reports
22 acknowledged that a note was found because it

1 references the CBS press call.

2 Q That would be on what date?

3 A The 28th, after that.

4 Q When after that?

5 A I can't place it. It could conceivably
6 have been before a briefing in which the actual
7 contents of the note were released.

8 Q Which would have been when?

9 A I believe that was August 10, but it could
10 have been in between that time in preparation for it.

11 Q So sometime between the 28th and August 10?

12 A That's my best guess.

13 Q Do you have any estimate as to closer to
14 one or the other?

15 A I don't.

16 Q The next entry?

17 A The next entry says "Gene Gibbons,
18 handwritten. May shed light. Late
19 Monday-disclosed. Torn up, briefcase. Turned over
20 to authorities. Gearan notes 'goes to state of
21 mind.'"

22 Q What does this entry indicate to you?

1 A This indicates to me that I would have said
2 to Gene Gibbons, who is a White House correspondent
3 for Reuters.

4 Q Mr. Gearan, let me show you another
5 document which has been marked as Z464 through 467.
6 If you could tell us what that document is.

7 (Witness reviewed the document.)

8 A These are my notes of a conversation,
9 telephone call with deputy Attorney General on what I
10 record as 11:45 a.m. on July 29.

11 Q Let's just go through these notes as well.
12 First entry on page 464.

13 A Read it like before?

14 Q Yes.

15 A "Janet and Phil recommend leave the release
16 to investigators. Park Police and FBI field office.
17 They will look at circumstances surrounding finding
18 of note."

19 Q Let's stop right there. What does that
20 indicate to you?

21 A That indicates to me that this was a
22 conversation during the period of time when the White

1 House was seeking from Justice what the guidance
2 would be, and this is the next day after the note had
3 been acknowledged as to whether the contents of the
4 note would be released.

5 Again, it was the White House concern that
6 everything be done in terms of what to release to the
7 press upon approval from the relevant investigators,
8 because this was an ongoing investigation. This is
9 a, seemingly, report back by the deputy Attorney
10 General saying that Janet, the Attorney General Janet
11 Reno, and Phil meaning the deputy Attorney General,
12 Phil Heymann, recommend that the release of the
13 contents of the note by this point be left to the
14 investigators, that is the Park Police, and the FBI
15 field office, that they would look at the
16 circumstances surrounding the note.

17 Q Why don't you read the next entry.

18 A "Can't promise when to release. Send all
19 questions to them or DOJ."

20 Q What does that indicate to you?

21 A That he cannot indicate when the note would
22 be released and suggesting that we send all

1 questions, meaning press questions, to them, meaning
2 I guess the Park Police, or DOJ, Department of
3 Justice.

4 Q The next entry?

5 A "Think chances are Park Police will release
6 in some time. If wrongdoing in finding note, will
7 take longer."

8 Q What does that entry indicate to you?

9 A That, again, Heymann is reporting that the
10 chances are that the Park Police will release it in
11 some time but if there is any wrongdoing found
12 associated with finding the note, then it would take
13 longer, meaning the release would take longer.

14 Q Did Mr. Heymann indicate to you that any
15 law enforcement officials were concerned that there
16 might be wrongdoing in connection with the finding of
17 the note?

18 A No, I don't believe I was aware of that.

19 Q The next entry?

20 A "Authenticity of note and circumstances
21 under which it was found."

22 Q Go ahead.

1 A "Best guess. All goes forward without
2 investigation, suspicions if released today."

3 My read of this would be that it was
4 Heymann's best guess is that all would go forward
5 without any further investigation but there would be
6 suspicions if the contents were released that day,
7 the 29th.

8 Q What sort of suspicions?

9 A I think suspicions among perhaps -- I don't
10 know what he was referring to, whether he was
11 referring to the press or law enforcement officials,
12 because he does reference concerns later about it.

13 Q The next entry?

14 A "Talking with Park Police at high level
15 (Tom Collier)."

16 Q What does that indicate to you?

17 A That again I think this is that Heymann is
18 talking with the Park Police at a high level and Tom
19 Collier I know to be the chief of staff to the
20 Secretary of the Interior.

21 Q And you have no recollection of Mr. Gergen
22 ever mentioning speaking to Mr. Collier?

1 A I do not.

2 Q Next entry?

3 A "Made clear that the White House wanted to
4 know if objection. Risk of release, it would arouse
5 suspicion."

6 Again, I think this refers back to this
7 reference (indicating) that I take this to mean that
8 Heymann has made it clear to perhaps the Park Police
9 that the White House wanted to know if there was an
10 objection. Again, we were doing everything we could
11 to make certain that the White House conduct on this
12 in terms of the release was approved.

13 He's indicating here that the risk of
14 release, meaning I think the risk of release that
15 day, that it would arouse suspicion.

16 Q Do you know why release of the note on that
17 day would arouse suspicion?

18 A I don't recall him -- what his specific
19 reason was.

20 Q The next entry?

21 A "There's a sense from Park Police and
22 including Phil," meaning Phil Heymann, "and the

1 Department of Justice and probably the Washington
2 field office that too much of the investigation and
3 inquiry before, when and after was exercised by the
4 White House in those too close to Vince. Suspicion
5 is extremely dangerous. Do everything in," next
6 page, Z465, "power to quiet suspicion."

7 Q What does this entry indicate to you?

8 A This indicates, as I've I think mentioned
9 before, that Heymann is reporting, as he indicates
10 that he did to Mr. Nussbaum, that there is a sense
11 from the Park Police and Justice and the field office
12 that the conduct of the investigation and the inquiry
13 created a sense of suspicion and that he's suggesting
14 that everything be done in the power of those
15 involved to quiet that suspicion.

16 Q The words "truly dangerous," do you recall
17 if Mr. Heymann used those words?

18 MR. KRAVITZ: I think it was "extremely
19 dangerous."

20 BY MR. GIUFFRA:

21 Q Extremely, sorry.

22 A Yes, I believe all these to be, unless

1 referenced separately, you know, recording of what
2 Heymann was telling us.

3 Q Do you recall if he indicated why it would
4 be extremely dangerous?

5 MR. SIMON: Are you talking -- is the "it"
6 meaning suspicion?

7 BY MR. GIUFFRA:

8 Q Why the suspicion was extremely dangerous.

9 A No, I don't think he expounded on that.
10 "I've had heated discussions on the way the
11 documents were handled with Bernie."

12 MR. SIMON: Let the record reflect the
13 witness is reading.

14 BY MR. GIUFFRA:

15 Q This is at page 465.

16 A Which I take to mean by my notes that Phil
17 Heymann has had heated discussions on the way the
18 documents were handled with Bernie Nussbaum.

19 Q That's the review process with regard to
20 the documents?

21 A That's how I would read that, yes.

22 Q What about the reference to Janet Reno?

1 A I don't know if that means that Janet Reno
2 has as well had heated discussions. It's unclear
3 from my notes, and I don't have any recollection, or
4 whether it applies to the next series of notes.

5 Q And let's read those next.

6 A "Worried about four. Lateness of finding
7 note. Length of time in disclosure to us."

8 Q What does that mean?

9 A I don't know. Worried about four, I think,
10 could be -- and I don't recall this, but I think
11 could be the four days in between the search on the
12 22nd and the discovery of the note on the 26th. The
13 lateness of finding the note, I think, is pretty much
14 the same point. And the length of time in disclosure
15 to us, which I take to mean in between the period
16 when Neuwirth found it and the 6:00 meeting at the
17 White House.

18 Q And it would be your testimony you're not
19 sure whether these concerns are Janet Reno's or
20 Heymann's?

21 A That's correct.

22 Q The next entry?

1 A "Nobody believes there's anything but
2 suicide."

3 Q The next entry?

4 A "Odds against story in a day or two on the
5 note." Then the next "1 in 3 or 1 in 4 chances. The
6 Park Police or the Washington field office." There's
7 a note on the side, "suspicion story."

8 Q What does that indicate to you?

9 A I think it indicates to me that the odds
10 are, in the judgment of the deputy Attorney General,
11 that the story would be out in a day or two on the
12 note, that by this point, the 29th of July, the
13 acknowledgment of the note was already in the public
14 domain and this was among the most sought-after
15 documents in Washington.

16 Q So it was his view the note should be
17 disclosed promptly?

18 A It was at one point. I think this
19 reference, however, is that there is a very high
20 degree of chance that it would be leaked.

21 Q The next entry?

22 A "If any sign of the White House counsel,

1 chief of staff people, anyone supervising closely
2 their asking questions, you'll see all hell break
3 loose," which again I think goes back to his comments
4 previously about the nature of the investigation,
5 that he was, as he says in the next comments,
6 encouraging openness to the investigators.

7 Q The next page is 466.

8 MR. SIMON: Is there any reason why we're
9 skipping the last two lines? I mean, I don't want to
10 protract this.

11 THE WITNESS: "Best idea. Release when
12 investigators want. Display openness to
13 investigators."

14 BY MR. GIUFFRA:

15 Q What does that indicate to you?

16 A That again this is the recommendation of
17 Mr. Heymann to release when -- to "release" meaning
18 release the contents of the note when the
19 investigators want and that --

20 MR. SIMON: Rather than who?

21 THE WITNESS: Rather than when the press
22 wants. I mean, I think this was his judgment that we

1 solicited on what was appropriate to do. "Display
2 openness to investigators" refers to the conduct on
3 the part of folks at the White House, particularly
4 the counsel's office, is what I would assume he's
5 meaning.

6 BY MR. GIUFFRA:

7 Q And the next page, 466 at the top.

8 A "I'm reluctant. I don't feel I can tell
9 you complaints. Reaction of suspicions revealed to
10 us."

11 Q What does that indicate to you?

12 A It indicates that there may have been a
13 question posed to him by myself or Mr. Gergen at that
14 point to explain a little bit more about what he had
15 said previously about all hell breaking loose and
16 kind of his concerns about it, and he's saying he's
17 reluctant to, I assume, detail any more, saying "I
18 don't feel I can tell you," but there have been
19 complaints and the reaction of these suspicions on
20 the part of, I guess, some of the investigators have
21 been revealed to us, meaning Justice.

22 He then goes on to say "basically, in all

1 stages, controlled in all ways. They don't feel they
2 can see. They've conducted an inquiry."

3 Q What is that?

4 A I think he is saying here, again going back
5 to the nature of the investigation, that while he's
6 reluctant to go any further, he is saying basically,
7 in all stages of this investigation or inquiry that
8 has been controlled, meaning controlled by, as he has
9 said before, those too close, actually those too
10 close to Vince, that they don't feel that they can
11 say, I suspect, is what I really mean here, that they
12 have conducted an inquiry, meaning the investigators.

13 Q The next entry?

14 A "Much too much control from the beginning
15 of the investigation."

16 Again, I would take this to mean
17 Mr. Heymann's point on the same topic.

18 The next sentence says "it was a mistake to
19 rely on the silence on low-level investigators when
20 dealing with a high-level case."

21 Q What does that indicate to you?

22 A I don't know exactly what he means in this

1 instance, whether he is saying that one should not
2 mistake the silence that was shown apparently at the
3 July 22 search as approval of the conduct or what his
4 particular point was. I can't tell you.

5 MR. SIMON: Could you excuse me? It's
6 5:30. I need to make a quick call.

7 (Discussion off the record.)

8 BY MR. GIUFFRA:

9 Q Let's just focus on this one sentence. "It
10 was a mistake to rely on silence on low level
11 investigators when dealing with a high level case."

12 It's your testimony that the "silence"
13 refers to the silence of the low level investigators
14 at the search or just generally?

15 A It's my testimony that I'm not certain what
16 this means, that a possible explanation of this could
17 be that the silence that day, meaning during the
18 search, of these investigators --

19 Q Have you been advised of that silence?

20 A No, no, no. I'm just trying to explain
21 what I think he might have meant. I can't tell you
22 what I recall specifically or beyond that.

1 Q What's another possible explanation?

2 A That's the best guess I could give you. I
3 mean that's my best --

4 Q Okay. The next entry?

5 A Next entry says "DG," which is David
6 Gergen. "We will not release on recommendation of
7 the Department of Justice. It will be by Park
8 Police." I would read that as saying the White House
9 will not release the contents of the note upon the
10 recommendation of Justice, which we were just
11 provided, and that it will be released by the Park
12 Police. "Phil Heymann, I'm entirely happy with
13 that," which I take to mean Phil Heymann saying he's
14 happy with what David Gergen just told him.

15 Q The next entry?

16 A "It's better if you avoid any statements
17 other than you turn them over. The AG at 7:00, then
18 the Park Police at 9:00 p.m." Again, this is
19 Heymann's guidance to the White House for purposes of
20 press questions, it's better if you avoid any
21 statements beyond the simple turning it over, that we
22 could say we met with the Attorney General at 7:00,

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1 we being the White House collectively, and the Park
2 Police at 9:00.

3 Next entry, "do finding questions to
4 investigators." That is unclear to me. I take it to
5 mean that we could refer any more questions to the
6 investigators.

7 Q And the next page, which is 467?

8 A It says "I learned that the FBI field
9 office was informed of the document," meaning
10 Heymann, "document" I assume meaning the Vince Foster
11 note.

12 Next entry, "DG," David Gergen, "we need
13 if/when Park Police releases notification for
14 response," which I would read to mean we need to know
15 if and when the Park police releases the contents of
16 the note, that we would have some kind of
17 notification in order for the inevitable needed
18 response from the White House.

19 The next entry is "PH," Phil Heymann,
20 "absolute. I'll set it up." I take that to mean
21 absolutely, I'll set it up, meaning I will set up the
22 notification.

1 Q And the next entry?

2 A "When people come over to ask questions, do
3 so private and whatever they want." I think again
4 it's going back to his prior point on the importance
5 of openness to investigators that when "people,"
6 meaning investigators, "come over," meaning to the
7 White House, to "ask questions," it should be done in
8 private, that there be no one else there, I don't
9 know that there was, but, and "whatever they want"
10 meaning display the openness that he had counseled
11 earlier.

12 Q By the reference to "private," do you think
13 that refers to whether there should be White House
14 officials present during interviews conducted by law
15 enforcement investigators?

16 A That could be a reading of it. I can't
17 recall whether that was the specific instance.

18 Q The next entry?

19 A The final entry is "PH. Documents have
20 been distributed over my objections."

21 Q What does that indicate to you?

22 A My read of this is that he is referring to

1 the fairly wide distribution of the Vince Foster
2 note. It could refer back to this point at the top
3 of the page that he has learned, Heymann has learned,
4 that the FBI field office was informed of the
5 document. And I have some recollection that it was
6 the FBI field office for Northern Virginia. I think
7 his point was because of the wide distribution of
8 this document that has been distributed over his
9 objection, the potential for leaks is exponentially
10 increased.

11 Q There are slashes on the left-hand side of
12 the margin on page 467. Do those slashes indicate
13 new subject matters to you in note taking?

14 A They could. They could also indicate
15 another speaker, like in the first instance before
16 Gergen spoke, although that's not always the case.

17 Q Would it be your testimony that the
18 reference to documents, would that refer to single
19 document or plural, the d-o-c-s, period?

20 A It's my best read of this that it was
21 referring to the -- while it says the plural, it was
22 referring to the Vince Foster letter and the general

1 nature of the wide distribution, because this was all
2 a call, again, about press guidance and what we would
3 do as press guidance in the nature of the potential
4 for a leak. And given that this was the next day,
5 there was a clearly different tone in this
6 conversation that he -- in his remarks about the
7 conduct of the White House counsel's office in the
8 investigation.

9 Q Do you recall Mr. Heymann at any time
10 indicating to you that he -- strike that.

11 Do you recall Mr. Heymann at any time
12 indicating to you that the documents from
13 Mr. Foster's office had been distributed, for
14 example, to the Clintons' law firm --

15 A No.

16 Q -- over his objections?

17 A No.

18 Q Do you recall any discussion of the
19 distribution of the documents from Mr. Foster's
20 office by Mr. Heymann?

21 A Other than what is contained here or in a
22 conversation with Heymann, no.

1 MR. GIUFFRA: Off the record.

2 (Discussion off the record.)

3 BY MR. GIUFFRA:

4 Q Do you have any knowledge with regard to
5 whether anyone, whether in the White House or a law
6 enforcement official, objected to how the documents
7 in Mr. Foster's office were distributed?

8 MR. SIMON: Are you including the press?

9 BY MR. GIUFFRA:

10 Q Other than the press.

11 A Well, I'm aware based on that conversation
12 about the concerns about how the -- that inquiry was
13 conducted in an openness sense. As to the specifics
14 of whether that extended to the distribution of
15 documents, I'm unaware of any concerns beyond that.

16 Q For example, you don't recall anyone saying
17 we need to wait and do a further review of the
18 documents before they're distributed to either
19 Mr. Hamilton or to Williams & Connolly?

20 A No.

21 Q This is a document which has been marked
22 Z507. What is this document?

1 A This is a document in my handwriting. It's
2 undated, but from a conversation with Sylvia Mathews.

3 Q When would you approximate this
4 conversation with Sylvia Mathews occurred?

5 A I would approximate it in and around the
6 time where we needed to get answers to the press
7 about the -- it could have been in terms of the trash
8 being retained, Vince Foster's trash bag, in
9 preparation obviously for -- to answer press
10 questions. I can't put a firm date on it.

11 Q Can you give us a rough estimate in terms
12 of the date?

13 A There's no indication from this document as
14 to when it would be based on even the substance.
15 There were ongoing press questions that Dee Dee and I
16 were handling during this period.

17 Q My recollection is that you testified that
18 Ms. Mathews spoke to you, is it the day after?

19 A That evening.

20 Q The 21st?

21 A The 20th.

22 Q Did she speak to you on the 21st?

1 A I don't recall talking to her on the 21st.

2 Q Is it possible these notes were prepared on
3 the 20th?

4 A No, because it says "told RN in the a.m.,"
5 Roy Neel, and it was all after the fact, recounting
6 of that night.

7 Q Let's go through this document.

8 A Okay. "Directed by --

9 MR. KRAVITZ: This is Richard Ben-Veniste,
10 Democratic special counsel.

11 THE WITNESS: "Directed by Bill Burton to
12 lock office. Bernie locked and reported back."

13 BY MR. GIUFFRA:

14 Q What does that indicate to you?

15 A That it's unclear to me whether she was
16 directed by Bill Burton or not or it was directed by
17 Bill Burton to have the office locked, that Bernie,
18 meaning Bernie Nussbaum, locked it and "reported
19 back," I assume to Burton but I don't know. And the
20 "office," of course, being Vince Foster's.

21 Q The next entry?

22 A "Sylvia went through bags and found Vince

1 Foster trash. Knew it because of credit card
2 receipts with his name on it." Again, this is her
3 explanation of thinking to retain the individual
4 trash bag from Vince Foster's office and that she
5 knew it was his or she could confirm it was his based
6 on credit card receipts with his name on it.

7 Q From your notes, do your notes indicate to
8 you that Bernie locking the office and reporting back
9 occurred before Sylvia went through the bags and
10 found Foster trash?

11 A It's unclear to me. I don't know that this
12 was chronological or not. I can't testify to that.

13 Q Do you have any estimate?

14 A I don't.

15 Q And the next entry?

16 A "Put in RN office. Not MM out of
17 courtesy. With note. Do not throw away." Which is
18 put in Roy Neel's office, not in Mack McLarty's
19 office "out of courtesy," courtesy because of Foster
20 and McLarty knowing each other for 40 years, with a
21 note instructing "do not throw away."

22 Q And what is the next entry?

1 A "Told RN in the a.m." Told Roy Neel in the
2 morning.

3 Q Thank you. Let me show you a document
4 that's been marked Z508. Let's go through the same
5 process.

6 A This is a note undated but in my
7 handwriting of a conversation with Cliff Sloan.
8 "Wednesday, 7/21. Informed that janitorial help
9 took trash out. Somebody had foresight to keep
10 Tuesday stored in Roy Neel's office (Bernie)."

11 Q What does that indicate to you?

12 A That on Wednesday the 21st, which is the
13 day after Vince Foster's suicide, I would read this
14 that Sloan was informed that the janitorial help had
15 taken the trash out but somebody, apparently he did
16 not know at this point, had the foresight to keep it
17 on Tuesday, meaning the night before, and that it had
18 been stored in Roy Neel's office. The parenthetical
19 Bernie, I'm not sure whether that's Bernie told him
20 or what that means.

21 Q Before you go any further, do you recall
22 when these notes were prepared?

1 A No. I do have a recollection that this
2 note and Sylvia Mathews's note were done at the same
3 time period, I think perhaps, but I can't give you
4 the date any more than the prior one.

5 Q Do you think this was before the discovery
6 of the Foster note?

7 A It could have been. It could have been
8 after. In order to get the, you know, "tick tock" as
9 we say about it, about the specific facts.

10 Q And the next entry?

11 A "Afternoon. Prereview meeting. Lawyers,
12 FBI, Department of Justice, Park Police. Bag of
13 trash noted. Sloan goes to Roy's office, retrieves
14 it and stores it in Vince Foster office."

15 Q What does this entry indicate to you?

16 A This indicates that there was a -- that
17 they had a premeeting. I take that to mean before
18 the search on the 22nd, with lawyers from the FBI,
19 Justice and Park Police, that this bag of trash was
20 noted to them in this prereview meeting, that Sloan
21 retrieveed it from Roy Neel's office and that it was
22 stored in Vince's office.

1 Q And what is the next entry?

2 A That on Thursday -- "Thursday, 7/22. In
3 review of office, BN," Bernie Nussbaum, "narrated the
4 trash thrown out," which is straightforward. I would
5 take this to mean that on the search on the 22nd when
6 they were reviewing documents in the office, Nussbaum
7 went through the trash.

8 Q Let me show you some more documents. This
9 is a document bearing Bates numbers Z509 to 513. Do
10 you know what this document appears to be, or series
11 of documents.

12 (Witness reviewed the document.)

13 Did you prepare these documents?

14 A No, not all of them.

15 Q Not all of them or some of them?

16 A Correct.

17 Q Why don't you go through the documents and
18 explain.

19 A Okay. Document Z509, 510 and 511 are notes
20 of my conversation with Phil Heymann. It's not
21 dated, and I don't know, I can't give you the exact
22 time of this, although it would be my judgment that

1 based on the information in here, this was in the
2 early aftermath of Vince Foster's suicide because he
3 was explaining the relevant jurisdictional
4 authorities.

5 Q You prepared these notes, this is your
6 handwriting?

7 A Yes, this is my handwriting based on a
8 conversation with Heymann.

9 Q Let's go through this initial document,
10 509.

11 A Okay.

12 Q Same procedure, unfortunately.

13 A That's okay. This is the one that's not
14 mine.

15 MR. GIUFFRA: Off the record.

16 (Discussion off the record.)

17 THE WITNESS: "Phil Heymann. Two local FBI
18 office working with Park Police. Make sure nothing
19 other than suicide involved. Powder burns-note.
20 Autopsy report next week," which I would take to read
21 that Heymann is telling me, again for purposes of
22 press inquiries and response, that two local FBI

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1 offices or officers, it is unclear, are working with
2 the Park Police, making sure that there's nothing
3 other than a suicide involved. "Powder burns,"
4 "note" and "autopsy report next week," these are the
5 kinds of things they would look at is a possible
6 reading of these, although I don't recall it.

7 BY MR. GIUFFRA:

8 Q Let's do the next entry.

9 A "Never did an investigation. Help sort
10 papers."

11 I don't know what he's -- what this is a
12 specific reference to. I don't recall this, whether
13 it's the Park Police has never done an investigation
14 and that the FBI is helping sort papers. I don't
15 know quite what this is referring to.

16 Q Do you think that's something from
17 Mr. Heymann, though?

18 A Oh, it all is, yes.

19 Q The next entry?

20 A "Not a separate investigation by the
21 Department of Justice. Park Service interviews. No
22 separate entity by the Department of Justice." This

1 is again explaining that the Justice Department
2 doesn't have a separate investigation on this and the
3 Park Service is conducting the interviews.

4 He goes on to say that the "FBI is
5 assisting Park Service." Then further on to say that
6 "overall federal inquiry, the Park Service
7 investigation of suicide. Search of White House
8 office, FBI, DOJ, counsel and Park Service."

9 It's unclear to me for the purposes of
10 trying to date this thing whether that's in advance
11 of the search or after the search. It's unclear.

12 But "lead is the Park Service. Not another
13 investigation."

14 Q Was that an important issue as to whether
15 the Park Police would be in charge of the
16 investigation?

17 A There were questions in the early days of
18 this by the press as to who the lead investigatory
19 authority was because of the numerous jurisdictions
20 involved. Was it the United States Secret Service,
21 Department of Justice, FBI, the Park Service, the
22 Fairfax County. It went on and on.

1 There was a question, and clearly it was
2 answered, that the leak is the Park Service.

3 Q Do you recall any discussion as to whether
4 the Park Police should be replaced as the lead in the
5 investigation?

6 A No.

7 Q Next, 511.

8 A "Not a criminal investigation. Therefore
9 no jurisdiction for criminal. No predicate for
10 criminal investigation. Inquiry. Park Service is
11 reporting." Which again he's telling me that this is
12 not a criminal investigation in terms of whether
13 there was a question on that or not, I don't recall,
14 that there is no predicate for it, that it's an
15 inquiry by the Park Service.

16 He goes on to say the "FBI is reporting."
17 I'm not certain what that means. He had previously
18 said the Park Service is assisting with interviews.

19 MR. SIMON: The FBI is assisting with
20 interviews.

21 THE WITNESS: Correct. He goes on to say
22 "not a full-blown criminal investigation," which is

1 repetitive of what he said earlier.

2 BY MR. GIUFFRA:

3 Q The note 512, what does that appear to be
4 to you?

5 A This appears to me to be notes written I
6 believe by my colleague, Dee Dee Myers.

7 MR. SIMON: For the record, that's Z512?

8 BY MR. GIUFFRA:

9 Q 512.

10 The next document, which is 513, do you
11 know what this document is?

12 A Yes. This is a -- notes of what I believe
13 to be a phone conversation with Web Hubbell. This is
14 my handwriting on 1:15. There's no date to this.

15 MR. SIMON: I would note for the record
16 that portions of this document appear to have been
17 redacted by White House counsel. To the extent that
18 it involves an assertion of privilege, I would hope
19 we could be very circumspect so as to not get this
20 witness involved in a tug-of-war over a claims of
21 privilege.

22 MR. GIUFFRA: Actually I spoke to

1 Ms. Sherburne before coming to the deposition about
2 this document and she indicated that the redactions
3 were done on relevance grounds and that the redacted
4 material relates to Whitewater matters -- strike
5 that, relates to things such as the travel office
6 that were mentioned in the Foster note as a basis for
7 why he might have committed suicide.

8 MR. SIMON: Is it on the basis of that
9 proffer, because I can't be in a position to confirm
10 or deny that without involving, being in a position
11 to potentially waive any assertions that she's
12 making. On the basis of that, was that acceptable to
13 you with regard to the redactions so that we can
14 limit our conversation to the subject of the document
15 that is unredacted?

16 MR. GIUFFRA: We have ongoing discussions
17 right now with the White House as to obtaining the
18 unredacted documents, but I will keep my questioning
19 of Mr. Gearan to the materials here.

20 MR. SIMON: I will not -- if you would
21 accept a generality without prejudice to any
22 assertion of privilege or objection as to relevance

1 and pertinence, I would suggest that this
2 investigation could -- is that acceptable to you so
3 that I'm not looking like I'm --

4 MR. GIUFFRA: I don't see how you could
5 have attorney-client privilege.

6 MR. SIMON: It's not attorney-client. It
7 would be -- this witness is subject to executive
8 privilege, which as we understand it, and we
9 understand the law, to the extent that he is an
10 employee of the White House, can only be waived by
11 the President and/or through his designee, White
12 House counsel. So from our point of view, we don't
13 want to get in trouble. I can tell you right now the
14 rest of this note should not substantially -- should
15 not in any way assist your probe.

16 MR. GIUFFRA: I'm going to stick with
17 questioning Mr. Gearan as to what's in the unredacted
18 portion of this document.

19 MR. SIMON: Couldn't be better.
20 Excellent.

21 BY MR. GIUFFRA:

22 Q Go ahead. When do you estimate this

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1 conversation occurred?

2 A I would estimate it that it's on the 28th
3 or so of July, 1993.

4 Q Do you recall why you were speaking to
5 Mr. Hubbell?

6 A I recall that he called me to observe that
7 we should be prepared to answer why it was so long in
8 between -- in finding this note. "Be prepared to
9 answer" meaning to the press.

10 Q Let's go through the --

11 MR. SIMON: Was this the day after the note
12 was turned over to the Justice Department?

13 THE WITNESS: The 28th, I believe.

14 MR. SIMON: I was looking at the door being
15 closed so I wasn't -- I was distracted. Was it the
16 28th you say?

17 BY MR. GIUFFRA:

18 Q This conversation occurred on the 29th?

19 A 28th. "Found in briefcase. Can't believe
20 we didn't look until Monday. Be prepared to answer
21 why so long."

22 Q What does that indicate to you?

1 A It indicates to me that Mr. Hubbell was
2 calling to express his view that we need, "we" being
3 the White House, needs to be prepared to answer to
4 the press why it was so long that the -- in between
5 the search on the 22nd and Mr. Neuwirth finding it on
6 whatever it was, the 26th, that that would be a
7 subject of press inquiry.

8 Q Did he indicate to you any displeasure with
9 how Mr. Nussbaum conducted the search?

10 A I don't recall that from Mr. Hubbell, no.

11 Q Did he communicate to you any similar
12 concerns to those expressed by Mr. Heymann with
13 regard to Mr. Nussbaum's role in connection with the
14 Park Police investigation?

15 A No, I don't recall that.

16 Q What's the last at the bottom?

17 A "Who is really running and looking at
18 documents."

19 Q What does that indicate to you?

20 A It's unclear to me, and I don't have a firm
21 recollection of what he was referring to. It could
22 be read as, again, the importance of the White House

1 being prepared to answer who is running the
2 investigation, which the previous call we've just
3 discussed. And "looking at documents," just I think
4 it can be read in concert with the other reference to
5 his concerns that we need to be able to explain both
6 the timing of it and how it's being done, but I can't
7 tell you that's a firm recollection of that
8 conversation.

9 Q Did he indicate to you in any way that he
10 was concerned that Department of Justice personnel
11 were not allowed to look at the documents in
12 Mr. Foster's office?

13 A No.

14 Q Did he indicate to you that he was
15 concerned that Park Police officials were not allowed
16 to look at the documents in Mr. Foster's office?

17 A No.

18 Q Did you have any other conversations that
19 you can recall with Mr. Hubbell relating to the
20 handling of the documents in Mr. Foster's office?

21 A Beyond this (indicating)?

22 Q Yes.

1 A I don't recall, no.

2 Q I would like to show you some documents --
3 strike that.

4 Do you have any recollection of whether
5 during the course of your conversation with Sylvia
6 Mathews, any conversation, that you indicated to her
7 that Mr. Burton had told you that the office would be
8 secured?

9 A Well, I recall asking Mr. Burton and
10 reporting to Mr. Gergen on the evening of the 20th.
11 I also have read the notes of my conversation with
12 Sylvia where that is written there. I don't recall
13 whether -- I don't recall that conversation beyond my
14 notes, me having a conversation with Sylvia about the
15 office locked separately from anything I've said
16 previously.

17 Q So you have no recollection of telling her
18 that Burton had told you that the office would be
19 locked?

20 A No.

21 MR. GIUFFRA: Off the record.

22 (Discussion off the record.)

1 BY MR. GIUFFRA:

2 Q These are documents bearing Bates numbers
3 493 to 498.

4 (Witness reviewed the document.)

5 Do you know whether these documents were
6 maintained in your files?

7 A I know these to be the documents that I
8 produced for the subpoena, initial subpoena in this
9 matter.

10 Q The first document, 493, did you prepare
11 this document?

12 A No.

13 Q How did you obtain this document?

14 A I don't know how I obtained it. I believe
15 it to be Craig Livingstone's writing of the
16 chronology for that evening, and I know it to have
17 been in my files when I was asked to provide it. I
18 don't recall receiving it or reviewing it in advance
19 of that.

20 MR. SIMON: By your "files," are you
21 talking about the communications office files?

22 THE WITNESS: Yes, yes.

1 BY MR. GIUFFRA:

2 Q The next document, 494.

3 A Again, this is a document that is entitled
4 just "Report from Craig Livingstone" that I provided
5 upon request by the Committee. It was in the
6 communications office files.

7 Q And do you have any other knowledge of this
8 document?

9 A No.

10 Q This is a blank page. This is seemingly
11 the second page to the Livingstone chronology?

12 MR. SIMON: For the record, Counsel, so
13 there's no confusion on this, page Z495 is blank. It
14 is my opinion, having been involved in the production
15 of this document, that it was inadvertently copied
16 and inadvertently given a number. Not inadvertently
17 copied. It was an extra -- how do you put it. It's
18 a blank page that may have gone through -- the
19 copying as part of the production, but the document
20 itself is only two pages long, so it appears to have
21 been a page that somehow got between page 494 and 496
22 and it is getting late and I am now beginning to

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1 sympathize with my client about being able to make
2 coherent sentences.

3 MR. GIUFFRA: We appreciate your solving
4 this mystery.

5 MR. SIMON: I figured you might have
6 suspected that, but just in case.

7 BY MR. GIUFFRA:

8 Q Do you recall receiving these documents
9 from Mr. Livingstone?

10 A I don't.

11 Q The next document, 497?

12 A This was also a document that was in the
13 communications office file. I don't know who
14 authored it, whether it was the counsel's office or
15 another -- I don't know the author of this document.

16 Q Have you ever seen this document before?
17 Do you recall receiving this document?

18 A No.

19 MR. SIMON: So you're answering the
20 question do you remember receiving it.

21 THE WITNESS: Right. I recall seeing it
22 for the purpose of production, but I don't recall.

1 BY MR. GIUFFRA:

2 Q No other recollection?

3 A Right. Off the record.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q Next document I'm going to show you has
7 been marked Z472 to 481. This may be separate
8 documents but this is the way it's been provided to
9 us. Take a look at that document.

10 (Witness reviewed the document.)

11 Do you know what this document is?

12 A I believe this to be a document that was an
13 attempt to summarize what had been said on the record
14 in the immediate aftermath of Vince Foster's suicide,
15 including the search, including what was known about
16 the discovery of the note and the handling of the
17 note and what was publicly known and what was
18 officially stated from the White House during that
19 period.

20 Q Do you recall when this document was
21 prepared approximately?

22 A No, I do not. I do not. There was a

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1 period of time in December when issues about the
2 files then became reconsidered by the press, and in
3 that context, perhaps it could have been prepared but
4 I can't testify with any assurance.

5 Q Would this be December 1993?

6 A Or into January, yes.

7 Q Do you know who prepared this document?

8 A I'm not certain. I think it might have
9 been Jake Siewert from the communications office, who
10 researched what was said on the record.

11 Q Mr. Siewert worked for you; am I correct?

12 A Yes.

13 Q Did you ask him to prepare this document?

14 A I don't know that I asked for this document
15 or not. I do know there was a period when the
16 question of what the White House had said was at
17 issue and it was important, I felt, to make certain
18 that we were clear as to what was said when on the
19 record.

20 MR. SIMON: Could I just interject? Were
21 you the only one who could have asked him to do
22 this?

1 THE WITNESS: No. It may have been
2 prepared by the research office as well. I can't
3 say.

4 BY MR. GIUFFRA:

5 Q Did there come a time when you learned that
6 Mr. Foster's office had not been secured on the night
7 of his death?

8 A There came a time when I was aware, as I've
9 testified, that Bernie Nussbaum went into his office
10 and made this cursory search and did not find any
11 note left. Other than that, I'm not aware of any
12 other instance.

13 Q When did you learn that Bernie had
14 performed the --

15 A I don't know whether I learned the 20th or
16 the 21st, but I was able to say on the 21st at the
17 briefing that no note was found, so somewhere in that
18 period of time clearly I was aware of that.

19 Q Did there ever come a time when you learned
20 that Maggie Williams had entered Mr. Foster's office
21 on the night of his death?

22 A Yes.

1 Q When was that?

2 A It was, I believe, in and around the time
3 when the press reports first reported it. I don't
4 know if I knew right before it or afterwards, but it
5 was not until then.

6 Q This would be in this December/January 1993
7 period?

8 A No, the first reporting of that I thought
9 was in August of 1993. I may be mistaken. Yeah, it
10 was August. There was a Washington Post story in
11 August which said that Maggie Williams, Bernie
12 Nussbaum and Patsy Thomasson went into Vince Foster's
13 office.

14 Q This was the story prepared by Mr. Isikoff?

15 A Correct.

16 MR. SIMON: Just so the record is clear,
17 you're referring to document number Z480, and I
18 assume that you're giving credit to that actually
19 being the date of the story and that being the author
20 of the story, that the August 15 date and Mr. Isikoff
21 was identified in that page as being the author of
22 the story.

1 THE WITNESS: Correct, yeah.

2 BY MR. GIUFFRA:

3 Q Do you recall whether Mr. Isikoff contacted
4 anyone in the communications office prior to
5 preparing this story?

6 A I don't recall that.

7 Q Were you aware that this story was being
8 written before it appeared in The Washington Post?

9 A I may have been. I cannot say specifically
10 when I was aware of this, whether it was right before
11 or after it was written. I can't recall.

12 Q Did you ever speak to Mr. Nussbaum --
13 strike that.

14 Did you ever ask Mr. Nussbaum whether
15 Maggie Williams or Patsy Thomasson had gone into
16 Mr. Foster's office on the night of his death?

17 A I don't recall whether I did or not.

18 Q Do you have any general recollection as to
19 whether you spoke to Mr. Nussbaum about whether Patsy
20 Thomasson or Maggie Williams entered Mr. Foster's
21 office?

22 A I have a recollection of Mr. Nussbaum

1 saying that Maggie Williams was crying on the couch
2 at that point.

3 Q In Mr. Foster's office?

4 A In Mr. Foster's office. And I recall
5 Maggie Williams telling me that, but I don't recall
6 anything more than that.

7 Q Did she ever speak -- strike that.

8 What do you recall Ms. Williams telling you
9 about whether she entered Mr. Foster's office on the
10 night of his death?

11 A I recall a brief conversation with her
12 where she told me that she only sat on the couch and
13 wept and she was quite sad that evening.

14 Q Did you ever ask Ms. Williams whether she
15 reviewed any documents in Mr. Foster's office on the
16 night of his death?

17 A I don't think I ever asked her that, but I
18 had the clear impression that she was so sad that all
19 she did was to sit on the couch.

20 Q Did you ever speak to Ms. Thomasson about
21 whether she went into Mr. Foster's office on the
22 night of his death?

1 A No.

2 Q Has anyone ever told you that Ms. Thomasson
3 went into Mr. Foster's office on the night of his
4 death?

5 MR. SIMON: Other than in the press?

6 BY MR. GIUFFRA:

7 Q Other than in the press.

8 A I don't recall. I mean, I was aware of it
9 through the press accounts. I can't recall an
10 independent corroboration of it.

11 Q When the story appeared, was any attempt
12 made by the White House to determine whether the
13 story was accurate?

14 A I don't recall anyone suggesting that it
15 was inaccurate and therefore needed to be corrected.
16 I know that's not quite responsive, but there was
17 never an issue in the White House that the story was
18 inaccurate at the time.

19 Q Do you know whether any documents were
20 removed from Mr. Foster's office on the night of his
21 death?

22 A I'm not aware that any documents were

1 removed on the night of his death.

2 Q Do you know whether any documents -- strike
3 that.

4 Has anyone ever told you that any documents
5 were removed from Mr. Foster's office on the night of
6 his death?

7 A No.

8 MR. SIMON: Counsel, I am assuming, given
9 the testimony on this on a couple of occasions today
10 that you're excluding the fact that the trash bag was
11 taken out and then put back in, taken out by the
12 janitors and put back in.

13 MR. GIUFFRA: Yeah. We can exclude the
14 trash.

15 MR. SIMON: I think that's the way the
16 witness interpreted the question, but I wanted the
17 record clear.

18 MR. GIUFFRA: I appreciate that. Thank
19 you.

20 BY MR. GIUFFRA:

21 Q Do you know whether any documents were
22 removed from Mr. Foster's office prior to the

1 review -- documents at Mr. Foster's office that was
2 conducted on July 22, 1993?

3 A No.

4 Q Is it your understanding that no documents
5 other than the trash were removed prior to that
6 review?

7 A Correct, that's my understanding.

8 MR. GIUFFRA: Off the record.

9 (Discussion off the record.)

10 (Recess.)

11 BY MR. GIUFFRA:

12 Q Mr. Gearan, at the time that this document,
13 Z472 to 481, was prepared --

14 MR. SIMON: Can we make sure we know which
15 one we're talking about?

16 BY MR. GIUFFRA:

17 Q This stack of papers. Was there any
18 concern expressed by anyone at the White House as to
19 the accuracy of prior press statements that had been
20 made with regard to the Foster investigation and
21 related matters?

22 A Well, I think there was a concern on our

1 part because they were -- there was criticism by the
2 press about the completeness of our responses or the
3 timing of information that we were able to provide to
4 the press, so there was that. Concerning that
5 document, it's just a summation of what was said on
6 the record.

7 Q Do you believe that the press briefings
8 that were given in the period -- in the days
9 immediately following Mr. Foster's death were
10 accurate?

11 A I believe we made every effort possible to
12 truthfully and completely tell the press as much of
13 the information as we possibly could.

14 Q Do you believe that certain White House
15 officials were less than forthcoming with the
16 communications office during this period?

17 A I don't know what their motive was. I
18 think there was an understandable reluc -- tendency
19 to try to protect the family of Vince Foster in terms
20 of explaining his mental health at the time.

21 Q Do you believe that Mr. Nussbaum was
22 forthcoming with regard to activities occurring on

1 the night Mr. Foster's death in Mr. Foster's office?

2 MR. SIMON: Counsel, I have a problem.

3 Forthcoming with whom?

4 MR. GIUFFRA: Strike the question.

5 BY MR. GIUFFRA:

6 Q Do you believe that Mr. Nussbaum was
7 forthcoming with the communications office with
8 regard to the search/entry of Mr. Foster's office on
9 the night of his death?

10 A I have no reason to believe that he
11 wasn't. I also have to observe that he is a lawyer
12 and not a reporter and, you know, his answers were --
13 I don't think were intended to be in any way
14 deceptive, nor am I suggesting that they were.

15 Q Do you believe he provided complete
16 information to the communications office?

17 MR. SIMON: Counsel, I'm going to have to
18 object to that, because he has no way of knowing
19 that. How would he know what Bernie Nussbaum knows,
20 and therefore whether what Bernie Nussbaum was saying
21 was complete. I think what he has done is answer the
22 question as to whether or not he has any reason to

1 believe that Mr. Foster was less than candid --
2 excuse me, Nussbaum was less than candid, and I think
3 he said he has no reason to believe he was being less
4 than candid in what he said.

5 BY MR. GIUFFRA:

6 Q Is that your testimony?

7 A That's my testimony.

8 MR. GIUFFRA: Off the record.

9 (Discussion off the record.)

10 BY MR. GIUFFRA:

11 Q Would it be fair to say that in your role
12 as communications director, you received information
13 on a need-to-know basis?

14 A I think it varied. I think most White
15 House officials observed and understood the
16 importance of having as much information to help
17 explain and communicate what we were doing, the
18 administration generally. People were anxious to do
19 that. I think individuals' savvy in dealing with the
20 press on the part of the staff varied significantly.

21 Q But you wouldn't always be told the
22 complete story with regard to a particular matter by

1 affected White House officials?

2 A Of course one would never -- I would like
3 to think I was told the complete story, because I
4 think it's important that spokespeople are able to do
5 that so that they can honestly and accurately report
6 it to the press.

7 Q Show you a document that bears Bates number
8 485 to 487. Have you ever seen this document
9 before?

10 (Witness reviewed the document.)

11 A Yes, this is a document that was in the
12 communications office files that we produced for the
13 committee.

14 Q Do you know when this document was
15 prepared?

16 A I don't know. It's marked "draft 12/22."
17 I have no reason to believe that's not the date of
18 it, but I don't know. And I don't know who the
19 author of it is.

20 MR. SIMON: Was it '93?

21 THE WITNESS: I would suspect it's '93.

22 BY MR. GIUFFRA:

1 Q Do you know why this document was prepared?

2 A No. I do know that at that period of time
3 in December of 1993, there was a -- there were
4 stories that were reporting facts as if they were new
5 found that were -- that had been previously
6 reported. For instance, in the case of the Isikoff
7 article, in August of 1993 in the Washington Post.

8 Q Do you know how Mr. Isikoff learned the
9 facts that he reported in his article in the August
10 15, 1993 Washington Post?

11 A No, I don't.

12 Q You wouldn't know whether Ms. Williams
13 or -- spoke to him?

14 A I don't know that.

15 Q Did you ever ask her whether she spoke to
16 him?

17 A No.

18 Q Do you know if Mr. Nussbaum spoke to
19 Mr. Isikoff?

20 A I don't know. You mean for the purpose of
21 that article?

22 Q Yes.

1 A I don't know.

2 Q Do you know whether Ms. Thomasson spoke to
3 Mr. Isikoff?

4 A I don't know.

5 Q Just directing your attention to 487, the
6 statement and I'll read it for the record: "No
7 documents were taken from Mr. Foster's office prior
8 to the search on July 22 and nothing that the White
9 House has said on the subject has been inaccurate or
10 misleading."

11 Do you believe that statement to still be
12 accurate based on information that you have obtained?

13 A Again, with the exception of the trash,
14 yes.

15 Q Next document is 488 to 492. It's entitled
16 "Setting the Record Straight." What can you tell us
17 about this document?

18 (Witness reviewed the document.)

19 A Well, 488 and 489 is a review of different
20 implications in stories in and around the period of
21 December 1993. I don't know who authored it.

22 Q Had you seen this document before it was

1 produced in connection with subpoenas relating to
2 this matter?

3 A I don't recall. I do know that there was
4 a -- the period of time in and around the end of the
5 area in the beginning of 1994 there was an attempt,
6 particularly by individuals in the counsel's office,
7 to try to affirmatively, as this indicates, set the
8 records straight -- set the record straight about a
9 series of instances where the facts were misreported,
10 which then led to a series of other stories, which
11 then fueled an awful lot of the coverage at that
12 point in time.

13 I would suspect this is one of those
14 documents that the counsel's office authored.

15 MR. SIMON: And you're referring to 488 and
16 489?

17 THE WITNESS: Correct.

18 BY MR. GIUFFRA:

19 Q Do you recall whether a Whitewater damage
20 controls team was organized at about this time, this
21 would be --

22 MR. SIMON: Counsel, I'm going to object to

1 that, unless there's a tie-in to the disposition of
2 any documents relating to Foster. I know that --
3 I'll leave it at that. I think that that's -- if you
4 would like to perhaps go off the record.

5 MR. GIUFFRA: Let's do that.

6 (Discussion off the record.)

7 BY MR. GIUFFRA:

8 Q Did there come a time when there was
9 established at the White House a group of people that
10 responded to Whitewater inquiries, a team?

11 A Well, in the fall of 1993, there came a
12 time where Bruce Lindsey was the lead spokesman in
13 terms of press inquiries on Whitewater issues. In
14 and around the beginning of the year in 1994, as the
15 issues in the press reports in December and into
16 January proceeded, there was a -- an informal group
17 of people that were working on responding to press
18 stories and to try to make sure we were clear from
19 the White House. I don't think it was formalized in
20 any way as a damage control team other than in press
21 reports.

22 Q Who was a member of this informal group?

1 A I would recall Harold Ickes.

2 MR. SIMON: Was there a formal membership?

3 THE WITNESS: No.

4 BY MR. GIUFFRA:

5 Q Who do you recall roughly participating in
6 these?

7 A David Gergen, Dee Dee Myers, George
8 Stephanopoulos, individuals from the counsel's
9 office.

10 Q Do you remember who from the counsel's
11 office?

12 A Neil Eggleston.

13 Q Mr. Cutler?

14 A He was not there at that point.

15 Q And did you attend these meetings?

16 A Yes.

17 Q Did Mr. Lindsey attend the meetings?

18 A Yes.

19 Q Can you think of anyone else who attended
20 these meetings?

21 A It wasn't as formal as one might think, so
22 the notion of meetings is a little bit vague to me.

1 MR. GIUFFRA: Off the record.

2 (Discussion off the record.)

3 BY MR. GIUFFRA:

4 Q Do you recall any discussions between
5 yourself and Mr. Lindsey bearing in any fashion upon
6 the handling of the papers in Mr. Foster's office at
7 the time of his death?

8 A No, I don't recall an individual
9 conversation, other than a generalized view, as that
10 last document we discussed states, about some of the
11 misinformation that was being reported concerning the
12 disposition of documents, but other than in a press
13 context of how the story was being reported, no, I
14 don't recall any of that conversation.

15 Q Do you recall any conversations with
16 Mr. Ickes on the subject of the handling of the
17 documents in Mr. Foster's office?

18 A Again, for all of those individuals, it
19 would have been in the context of press inquiries or
20 following up to press stories or how we would set the
21 record straight for events in July, because it was
22 our view that there were stories being reported as

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1 new, such as who went into Mr. Foster's office, when
2 that had been reported in August.

3 There were stories presupposing that we
4 would have been aware of Whitewater in July, when
5 articles on Whitewater do not come out until the late
6 fall of 1993, that we were in a period of time where
7 both because of -- in our view misreporting of some
8 of the facts and a blending of the periods of time
9 served to confuse seemingly the reporters and produce
10 a set of stories that were inaccurate.

11 Q Do you recall any effort being made at any
12 time to ascertain any facts relating to the handling
13 of the documents in Mr. Foster's office, other than
14 things you've testified to so far?

15 A Beyond that?

16 Q Yes.

17 MR. SIMON: Counsel, I have to tell you, I
18 think even producing documents here today or
19 producing documents to the Committee could be
20 considered to be within the ambit of that question.
21 If there's some way you can narrow it down.

22 MR. GIUFFRA: The reason I asked a broad

1 question was to speed things along.

2 MR. SIMON: I agree. I just want to -- I
3 would love that objective and if he can answer a
4 question that's a little bit more focused than that.

5 BY MR. GIUFFRA:

6 Q I'll try to be more focused but the reason
7 I asked the broad question was to see if we could
8 just get an answer and go on.

9 From the period October 1993 until January
10 1995, are you aware of any efforts being made by
11 White House personnel to ascertain facts relating to
12 the handling of the documents in Mr. Foster's office
13 following his death.

14 MR. SIMON: Counsel, I'm going to object to
15 that on the grounds, A, there is -- as I understand
16 it, that question may be broad enough to include
17 discussions with counsel, including White House
18 counsel and on that basis, we have been directed that
19 that is -- that that is a topic which in discussions
20 with the Committee has been subject to a White House
21 claim of privilege, and I'm not altogether sure how
22 many privileges they have claimed but executive

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1 privilege certainly would come to mind, as well as
2 attorney-client privilege, so on that basis I am
3 reluctant to have him answer it.

4 I think the question that I thought was
5 very well asked by Mr. Chertoff the other day was
6 that other than in the context of discussions with --
7 this is with another witness, excuse me. Other than
8 in the context of discussions with counsel, White
9 House counsel, has there been any -- is he aware of
10 any effort. That may be able to avoid any kind of --

11 BY MR. GIUFFRA:

12 Q Let's ask that question. Other than in
13 connection with reference by White House counsel, are
14 you aware of any efforts to ascertain facts regarding
15 what happened in connection with the handling of
16 documents in Mr. Foster's office?

17 A And any press inquiries, I assume you would
18 exclude that? I'm not suggesting there were but if
19 there were any press inquiries on this, I'm not aware
20 of any.

21 Q Let's go to press inquiries. In connection
22 with press inquiries following, say, September 30,

1 1993, do you recall any efforts being made to
2 ascertain facts regarding handling of documents in
3 Mr. Foster's office?

4 A No.

5 Q This document 492, what is that document?

6 A I don't know who prepared this document.
7 It does include an addition in my handwriting which
8 reads "never any doubt that the note would be turned
9 over."

10 I would suspect that this was suggested
11 guidance for spokespeople at the White House about
12 the timing of turning over the note to the Justice
13 Department and Park Police and would be a suggested
14 answer to the press as to explain the period of time
15 which lapsed between finding the note and calling the
16 Attorney General.

17 Q Is that your handwriting?

18 A It is.

19 Q Show you two documents bearing Bates
20 numbers 556 and 557. Just indicate for the record
21 what these documents are.

22 A These are what I believe to be draft

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1 statements that were written in and around the
2 December period that was going to be issued from the
3 White House, indicating that the President was
4 turning over these documents to the Justice
5 Department, the files, but these were drafts. I
6 don't believe this was the final statement that was
7 issued.

8 Q Is that your handwriting on Z557?

9 A No.

10 Q Do you know whose handwriting it is?

11 A I don't know. It's not familiar to me.

12 Q This is a document which bears Bates
13 numbers Z558 to Z571.

14 (Witness reviewed the document.)

15 MR. KRAVITZ: Is there any reason why those
16 are all together? They appear to me to be more than
17 one document.

18 MR. GIUFFRA: We can separate them, if
19 you -- off the record.

20 (Discussion off the record.)

21 BY MR. GIUFFRA:

22 Q Z558 to Z560.

1 A What's the question?

2 Q Do you know what this document is?

3 A I believe this to be a document drafted in

4 early January of 1994. There were a series of

5 materials prepared by individuals in the White House

6 counsel's office to explain, in this instance, a

7 synopsis of the actual Whitewater/Madison Guaranty

8 matter. It was unclear at the time what use this

9 would be or where this was necessarily going. It was

10 confusing to people what the actual facts were at

11 that time about Madison Guaranty because it was

12 somewhat complicated and I believe that's what this

13 is.

14 Q Do you know who prepared this document?

15 A I don't, no. I don't know if those

16 initials are Neil Eggleston. I don't know what --

17 that would be my guess, but I don't know what the W

18 is.

19 Q Did you play a role in the preparation of

20 this document?

21 A No.

22 Q Did you -- have you seen -- did you review

1 this document at any time, other than in connection

2 with appearing before the Senate or some other --

3 A I don't recall if I read it at the time. I

4 suspect I might have. I don't have -- I'm not aware

5 of any use I put to it.

6 Q On page 560, let me just direct you to the

7 sentence. "The law enforcement officers did not

8 object to Mr. Nussbaum's procedures."

9 Off the record.

10 (Discussion off the record.)

11 BY MR. GIUFFRA:

12 Q Do you recall any discussions with regard

13 to whether law enforcement officers objected to the

14 procedures that Mr. Nussbaum employed in connection

15 with the review of documents in Mr. Foster's office

16 that he conducted on July 21, 199 -- July 22, 1993?

17 MR. SIMON: In the context of the

18 preparation of this document?

19 MR. GIUFFRA: In any context.

20 MR. SIMON: I think he's already given

21 testimony concerning Mr. Heymann's.

22 THE WITNESS: What I'm aware of is the

1 concerns that Heymann expressed to Nussbaum and then
2 later -- or at some point in a conversation with
3 David Gergen and I about the concerns that existed
4 about the nature of his conduct that day. This
5 sentence, as I've testified, I did not write and I'm
6 not sure what you want me to --

7 BY MR. GIUFFRA:

8 Q That would not -- never mind.

9 So it would be your understanding that law
10 enforcement officials did object to Mr. Nussbaum's
11 procedures as far as you know?

12 A No, it was my understanding that from
13 Mr. Heymann that there were concerns expressed, but I
14 was not aware and am still not aware of any
15 objections that were made during that search and
16 that's why I testified that I don't know if that's
17 the silence comment that he mentioned in that phone
18 call.

19 Q The next document I believe is a single
20 document bearing Bates numbers 561 to 571.

21 (Witness reviewed the document.)

22 A I think these were all, as a series of --

1 MR. SIMON: Series of documents?

2 THE WITNESS: Yeah. There's breaks. This
3 seems to be a little different. I don't know if it
4 followed or not and in different formats.

5 MR. SIMON: The transcript won't reflect
6 what you're talking about when you're referring to
7 this. Are you referring to page -- these pages have
8 a different type style on them.

9 BY MR. GIUFFRA:

10 Q Okay, fine. Do you recall ever seeing this
11 document before today? Let's take 561 --

12 A I'm aware that I produced it for the
13 Committee.

14 Q Do you ever recall reading it or seeing it
15 other than in connection with producing it to the
16 committee?

17 MR. SIMON: Are you referring to the
18 collective group because we can answer those
19 questions --

20 THE WITNESS: No, I don't recall reading it
21 but I'm aware that this is among the type of
22 documents that were produced or it reminds me or I

1 recall that these were the kind of documents that
2 were produced in early January during this period
3 when we were trying to make every effort to be
4 specific and affirmative in correcting inaccuracies
5 in news reporting.

6 BY MR. GIUFFRA:

7 Q Let me ask about the initials on document
8 561. CJS, who do you believe that to be?

9 A It could be Cliff Sloan.

10 Q MW?

11 A Could be Michael Waltman.

12 Q Who is Michael Waltman?

13 A He is a member of the White House staff.
14 At this point he was in the communications office and
15 is a lawyer by training and may have assisted them in
16 the preparation of this.

17 Q Was he someone who reported to you?

18 A Yes.

19 Q Do you believe this could be Maggie
20 Williams?

21 A No, I would doubt that. I believe it's
22 Michael Waltman.

1 Q Were you aware that he was involved in the
2 preparation of these documents?

3 A Yes, yes.

4 Q The next document is 549 to 550.

5 (Witness reviewed the document.)

6 Do you know what this document is?

7 A This appears to be a draft of answers that
8 would be posted and processed during a briefing, as a
9 question can be taken by the spokesperson and then
10 responded to in writing, hopefully that day, for the
11 press. This appears to be a draft of answers being
12 prepared to answer the questions for my briefing of
13 that day.

14 Q And do you know whether that is your
15 handwriting on page 550?

16 A Yeah, that looks like my handwriting.

17 Q And the crossouts on both pages of the
18 documents, do you believe those to be your crossouts?

19 A I can't recognize my crossouts.

20 (Laughter.)

21 It does appear to be a right-handed
22 crossout. I would suspect that's my edits, yes.

1 Q 551.

2 A This would appear to be a draft or a
3 proposed statement to be issued that reviews the
4 circumstances of finding the note in Mr. Foster's
5 briefcase. These writings do not appear to be my
6 handwriting, and they don't look familiar to me. I
7 can't identify the handwriting or the crossouts.

8 Q The crossouts look familiar.

9 A They seem to be left-handed.

10 Q 552.

11 A This is a mixture of things. Some of this
12 is my handwriting and I believe this looks like
13 Dee Dee Myers's handwriting to me, as I recall, but
14 it is -- again seem all to be notes of what could be
15 said that day as we were drafting the statement to
16 confirm the finding of the note, discovery of the
17 note.

18 Q Could you just read for the record your
19 notes.

20 A Sure.

21 Q Across the top.

22 A It says "notes. Acknowledge found. Torn

1 up in office. Turn over to Park Police. Can't say
2 till they look further. Why wait. First to the
3 family," I assume the Foster family. "Ask to wait
4 and authenticate."

5 Above it it says "handwritten notes found
6 late Monday. Torn up. Turned over to Park Police
7 and Department of Justice Tuesday. Goes to state of
8 mind over his job."

9 Then there's an arrow saying "anticipate
10 more tomorrow."

11 Then the only other piece of my
12 handwriting, it says "formal acknowledge. More
13 tomorrow. Release or not."

14 Q This is a document bearing Bates number
15 Z555. What is this document?

16 A Again, this would be a -- it is the normal
17 practice when information is not as complete during
18 the course of a briefing to take the question, so
19 taken questions are taken by the spokesperson so that
20 later that day a complete answer could be posted in
21 the White House briefing room.

22 Q Now, you would have been the spokesperson

1 on July 21, 1993 with regard to the Vince Foster
2 death; am I correct?

3 A Correct.

4 Q And were you involved in preparing this
5 response to taken questions?

6 MR. KRAVITZ: Can I interrupt for one
7 second, just so the record isn't inaccurate, I think
8 the date on this document is probably wrong and that
9 may change your questions.

10 THE WITNESS: I was going to object that
11 July 21 wasn't a Thursday.

12 MR. KRAVITZ: We know the search was on the
13 22nd as well.

14 THE WITNESS: Right. So -- which explains,
15 because the 21st, obviously there was no search.

16 BY MR. GIUFFRA:

17 Q Do you recall reviewing this document?

18 A I don't recall.

19 Q Would you have reviewed this document?

20 A If this were responsive to questions I
21 would have taken, yes. It's unclear to me whether
22 this was mine or Dee Dee Myers's. While I briefed

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1 the 21st, this was clearly not the 21st. And this
2 might have been responses to taken questions from
3 Dee Dee Myers's briefing.

4 Q Do you recall who briefed on the 22nd?

5 A My understanding it was Dee Dee Myers based
6 on what you --

7 Q Yes. Second paragraph of the document
8 states "Nussbaum then conducted a thorough search of
9 Foster's office." That's the first sentence. Do you
10 know whether Mr. Nussbaum would have been contacted
11 before this?

12 A I'm sorry, whether he would have --

13 Q Been contacted before this response was
14 prepared.

15 MR. SIMON: You're not -- you're talking
16 about the second sentence that follows the paragraph
17 about the search?

18 MR. GIUFFRA: Let's just strike the whole
19 thing.

20 BY MR. GIUFFRA:

21 Q Before doing this response, do you know
22 whether Mr. Nussbaum would have been contacted?

1 MR. SIMON: Or was he?

2 THE WITNESS: I don't know. As I've said,
3 it would be unlikely that this was responses to my
4 taken questions from a briefing so I'm not
5 familiar --

6 BY MR. GIUFFRA:

7 Q Just because of the format of it?

8 A A, and B, because of the date. I don't
9 think I was handling that information that day, but
10 regardless, I'm unaware of whether he was personally
11 contacted to review this document.

12 Q Would it have been a practice of the
13 communications office to have contacted someone in
14 the White House counsel's office before sending out a
15 response like that?

16 A Yes.

17 Q And would it have been practice of the
18 White House counsel's office to have asked someone
19 from the counsel's office to have reviewed this
20 before it went out?

21 A Yes.

22 Q Do you have any idea why the words

1 "thorough search" were used in the second paragraph?

2 A No.

3 Q Z537 -- what is this document?

4 A This document is a -- again a document that
5 would have been posted in the White House briefing
6 room to, as it suggests, clarify questions raised at
7 today's briefing. It occurs to me, given the subject
8 matter and the briefer and the answer, that the date
9 is inaccurate at the top of this document. Wednesday
10 was not July 22. July 22 was not Wednesday.

11 Q Do you think this is a response to a
12 question that you took?

13 A Yes.

14 Q Do you know why this clarification was
15 issued?

16 A I recall from the briefing saying at the
17 time or suggesting that rather than making it any
18 more confused about who the point of contact is,
19 because there were a series of questions on that at
20 the briefing, that we would get back to them with the
21 specific arrangement. And that was the question I
22 took at the briefing and this is the response that

1 was posted that day.

2 Q At the time of Mr. Foster's death, do you
3 recall questions being raised as to why he might have
4 committed suicide?

5 A Certainly.

6 Q Was there a lot of uncertainty among White
7 House officials as to why Mr. Foster committed
8 suicide?

9 A Absolutely.

10 Q Was the President interested in learning
11 why Mr. Foster had committed suicide?

12 A I never had a question -- conversation with
13 the President about it.

14 Q Do you know whether he had any interest in
15 finding out why Mr. Foster had committed suicide?

16 A I'm not aware of anything beyond what we
17 would have told the press, and that was that most
18 people were at a loss to explain it.

19 Q I'll show you a document which bears Bates
20 numbers 468 to 471.

21 (Witness reviewed the document.)

22 Do you know what this document is?

1 A This is a series of Q and As, I would
2 suspect prepared by the counsel's office that would
3 serve as guidance for the press questions concerning
4 the discovery of the note, the time sequence involved
5 in notification to the Justice Department and how
6 people were informed.

7 Q Do you know who in the counsel's office
8 would have prepared --

9 A I don't know. I don't know.

10 Q Do you recall seeing this document at the
11 time?

12 A I can't testify that I did, but it is the
13 kind of guidance that is regularly prepared for the
14 press office.

15 Q By the counsel's office?

16 A By a variety of people in the White House,
17 as I've testified before, the National Security
18 Council, kind of Q-and-A format is typical.

19 Q I just have one question regarding this
20 document. It says that Mr. McLarty did not inform
21 the President about the note immediately. That's the
22 question. And then the answer it gives is that the

1 President was in the midst of a busy schedule of
2 meetings and was joined by several other members of
3 Congress on the flight back to Washington.

4 Do you have any explanation for why he
5 wouldn't have advised the President more promptly of
6 the note, since the note would have at least provided
7 some indication as to why Foster had committed
8 suicide?

9 MR. KRAVITZ: Are you asking him to
10 speculate or whether he knows from Mr. McLarty?

11 BY MR. GIUFFRA:

12 Q Do you know from Mr. McLarty?

13 A As to why he waited?

14 Q Why he waited so long.

15 A No, I don't know.

16 MR. KRAVITZ: I can't help but notice that
17 you've got still a rather healthy stack of documents
18 on the right side of that. I mean, are we going to
19 go through -- are those documents you're going to ask
20 Mr. Gearan about? We're going to be here -- that's a
21 thicker pile than the one you're done with.

22 MR. GIUFFRA: Neal, in terms of documents

1 that I actually have to ask him about, there's not
2 very many more. This is just a bunch of press things
3 which I'm not going to ask him about, the thicker
4 pile.

5 MR. SIMON: Just so that I can -- since it
6 is now -- we're now in our sixth hour of being here,
7 I'm just wondering -- 6:00 and into 7:00.

8 MR. KRAVITZ: We've been here since 1:30.
9 It's 7:45. I haven't asked a single question yet.

10 MR. SIMON: The only question, do you have
11 any idea how much longer?

12 MR. KRAVITZ: I don't think --

13 MR. GIUFFRA: I don't think very much
14 longer.

15 MR. KRAVITZ: That's not helpful.

16 MR. GIUFFRA: I will be done in -- no later
17 than 8:15 and hopefully earlier.

18 BY MR. GIUFFRA:

19 Q This is a document bearing Bates number 482
20 and 483. It appears to be a memorandum from a Jake
21 Siewert, S-i-e-w-e-r-t, to Mark Gearan.

22 (Witness reviewed the document.)

1 Do you recall asking Mr. Siewert to prepare
2 this memo?

3 A I don't recall, but I do recall being
4 concerned about the nature of the coverage during
5 this period, as I've testified before, that there
6 were misleading statements about -- in press reports,
7 including this one on ABC.

8 Q Do you know, was Mr. Siewert a lawyer?

9 A He's a graduate of law school, yes.

10 Q Do you know whether he conducted any sort
11 of an investigation to ascertain the truth with
12 regard to the statements made in this memo?

13 A No, I'm sure he did not. I think this memo
14 is based on previously stated public comments from
15 the White House. It would be the kind of thing that
16 would be prepared, document prepared to call the
17 reporter to discuss.

18 Q To say why the reporter's story was
19 inaccurate?

20 A Among other things.

21 Q Did there come a time at which there were
22 news stories regarding the transfer of the files from

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1 Mr. Foster's office to the White House residence?

2 A Yes.

3 Q Did the White House receive press inquiries
4 prior to the publication of those stories?

5 A The stories of --

6 Q With regard to the transfer of documents
7 from Mr. Foster's office to the White House
8 residence.

9 A I don't know in that period of time the
10 nature of the White House press inquiries. I became
11 aware of it following the subpoena I received from
12 Mr. Fiske in March of 1994, and made every effort to
13 absent myself as much as I could from speaking to the
14 issue of Whitewater generally or involving myself,
15 given the ongoing investigation and the fact that I
16 had received the subpoena.

17 So I wasn't principally involved during
18 that period so I can't tell you with any detail the
19 nature of press inquiries at that time.

20 Q Do you know whether any papers from
21 Mr. Foster's office were taken to a room or were
22 taken to the White House residence?

1 A I only know of press reports that have
2 reported that.

3 Q When did you learn that a Whitewater file
4 was contained in Mr. Foster's office?

5 A I cannot recall specifically. I believe it
6 was in and around December of 1993 when the issue of
7 turning over the files to the Justice Department was
8 in the newspapers.

9 Q So other than reading about it in the
10 newspaper, you have no knowledge with regard to how
11 it was determined there was a Whitewater file in
12 Mr. Foster's office?

13 A Well, I do know that we said at that time
14 in December that they were turned over and the
15 statement said "including the Whitewater file from
16 Mr. Foster's office." It was not solely, but it was
17 at that time period that I learned of it as best as I
18 can recall.

19 Q I'd like to direct your attention to a
20 document bearing Bates numbers Z96 to Z114. Do you
21 know -- just to speed things up, this is a transcript
22 of a press conference that Mrs. Clinton gave on April

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1 4, 1994.

2 A 22nd.

3 Q 22nd, excuse me. Let me just direct your
4 attention --

5 MR. SIMON: Counsel, this is not a document
6 I believe that we have produced; is that correct?

7 MR. GIUFFRA: The White House has produced
8 this document.

9 MR. SIMON: The White House has produced
10 that.

11 BY MR. GIUFFRA:

12 Q Yes. If I could just direct your attention
13 to page Z106, Z107, just to a question and answer to
14 the First Lady with regard to Mr. Foster's -- the
15 documents in Mr. Foster's office. If you could just
16 read that.

17 (Witness reviewed the document.)

18 Were you at all involved in the preparation
19 of the First Lady in connection with this press
20 conference?

21 A No.

22 Q Do you have any knowledge of discussions

1 within the White House with regard to whether the
2 First Lady accurately answered the question of
3 whether Maggie Williams removed any documents from
4 Mr. Foster's office?

5 A I'm not -- I'm not aware of any discussions
6 in the White House that there were any inaccuracies
7 in that press conference.

8 Q At any time?

9 A At any time.

10 Q Do you recall any discussions as to whether
11 there were inaccuracies of anything that was said at
12 this press conference with regard to this question,
13 with regard to Maggie Williams -- let me strike
14 that.

15 MR. SIMON: I think that was the question
16 you just asked.

17 BY MR. GIUFFRA:

18 Q Just to be clear about this, it would be
19 your testimony that you are not aware of any
20 discussion within the White House as to whether the
21 First Lady's statements at this press conference
22 regarding the Foster documents were accurate?

1 A Correct.

2 MR. SIMON: Or inaccurate.

3 BY MR. GIUFFRA:

4 Q Or inaccurate.

5 A Correct.

6 Q Do you recall any public statements by
7 Maggie Williams with regard to handling of papers in
8 Mr. Foster's office?

9 A No.

10 Q Do you have any knowledge as to whether the
11 First Lady asked Maggie Williams to store any
12 documents from Mr. Foster's office in the residence?

13 A No. As I've said, the only information
14 that I am aware of is through the press accounts on
15 this matter.

16 Q This is a document Z90 to 91.

17 MR. SIMON: I do not believe the witness
18 produced this.

19 BY MR. GIUFFRA:

20 Q This is 90 to 91.

21 (Witness reviewed the document.)

22 Do you recall ever seeing this document

1 before?

2 A No.

3 Q I'll show you a document that bears Bates
4 number Z177. Do you recall seeing this document
5 before?

6 (Witness reviewed the document.)

7 MR. SIMON: It may be getting too late, but
8 I don't know whether or not this document was
9 produced by the witness.

10 THE WITNESS: It wasn't.

11 BY MR. GIUFFRA:

12 Q No recollection of ever seeing it?

13 A No.

14 Q Do you recall any -- the issue of whether
15 Mr. Nussbaum had a combination to the safe in the
16 counsel suite ever coming up?

17 A I have a vague recollection of a story in
18 that regard. It was most immediately refreshed
19 but --

20 MR. SIMON: By the document?

21 THE WITNESS: By Bates number 177.

22 (Gearan Exhibit 1 identified.)

1 BY MR. GIUFFRA:

2 Q Show you a document we'll have to mark as
3 Gearan Exhibit 1. This is a News Wire statement you
4 apparently gave. Do you recall giving this
5 statement?

6 MR. SIMON: Let the record reflect that
7 this is a U.S. News Wire, Inc. statement.

8 THE WITNESS: I recall during that period
9 of time there was --

10 MR. SIMON: December 1993?

11 THE WITNESS: December of 1993 there were
12 questions raised about the files and news reports and
13 this very likely is a statement that was released by
14 the White House to explain the distribution of those
15 files.

16 BY MR. GIUFFRA:

17 Q Was it your understanding that the files
18 had been -- strike that.

19 With regard to the custody of the files
20 relating to President and Mrs. Clinton's personal
21 legal affairs, was it your understanding or did you
22 have an understanding as to whether the documents

1 were transported directly from Mr. Foster's office to
2 Clinton's personal attorney or whether there was an
3 intermediate step?

4 A In December of 1993 I think my working
5 understanding was that they would have gone to the
6 President's personal attorney. I was unaware of any
7 other intermediate step.

8 Q Other than from press accounts, you have no
9 knowledge with regard to whether there was an
10 intermediate step?

11 A Correct, but in December of 1993, there
12 were no press accounts.

13 Q Let me show you a document bearing Bates
14 number Z621 to Z622. Have you seen this document
15 before? I should state for the record it's a
16 memorandum to file from Thomas Castleton, special
17 assistant to the counsel to the President re:
18 transfer of contents of the deputy counsel's office.

19 MR. SIMON: Dated May 26, '94.

20 THE WITNESS: No, never seen this before.

21 BY MR. GIUFFRA:

22 Q Do you have any knowledge with regard to

1 press accounts relating to the leaking of this
2 document?

3 A No.

4 Q Do you have any understanding of a leak of
5 this document to Newsweek?

6 A An understanding of how it was leaked?

7 Q No, do you have any understanding that it
8 was leaked, of stories quoting this document?

9 A No, I don't.

10 Q Mr. Gearan, have you been interviewed by
11 the FBI with regard to matters that you have
12 testified here today about?

13 A Let me think. Yes -- the FBI --

14 MR. SIMON: Some of the matters upon which
15 you've asked questions about have been the subject of
16 an independent counsel investigation. The FBI was
17 not independent of the independent counsel.

18 BY MR. GIUFFRA:

19 Q Do you agree with your counsel's statement?

20 A Yes, I do.

21 Q Do you recall when you would have met with
22 the independent counsel, just times?

1 MR. SIMON: Counsel, we have been
2 requesting, and since this is going to be a matter of
3 public record, we have been requested of independent
4 counsel, at least by Special Counsel Fiske who
5 conducted the interrogation and as to Independent
6 Counsel Starr, there was -- this relates to a grand
7 jury appearance, so I think under the circumstances
8 it would probably be -- we have been requested by
9 Fiske not to engage in public comment about this so
10 if we don't have to get into it, we would very much
11 appreciate that.

12 MR. GIUFFRA: Off the record.

13 (Discussion off the record.)

14 BY MR. GIUFFRA:

15 Q Have you been questioned by Independent
16 Counsel Fiske about the matters to which you
17 testified here today?

18 MR. KRAVITZ: You mean him specifically or
19 someone in his office?

20 MR. SIMON: We're assuming it's generic
21 office. Is that okay?

22 MR. GIUFFRA: Yes.

1 THE WITNESS: Can we go off the record
2 here?

3 MR. GIUFFRA: Sure.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q Have you been interviewed by personnel
7 acting at the direction of Independent Counsel Fiske
8 with regard to the handling of Mr. Foster's papers?

9 A That's correct.

10 Q And have you been interviewed by
11 Mr. Starr's office with regard to the handling of
12 Mr. Foster's papers?

13 A Yes, I have.

14 MR. SIMON: For the record, it was a grand
15 jury appearance.

16 THE WITNESS: Yes. Mr. Starr is grand
17 jury.

18 BY MR. GIUFFRA:

19 Q You appeared before Mr. Starr's grand jury?

20 A Yes.

21 MR. GIUFFRA: Thank you very much. No
22 further questions.

1 MR. KRAVITZ: Why don't we take a short
2 break.

3 (Recess.)

4 EXAMINATION

5 BY MR. KRAVITZ:

6 Q Mr. Gearan, I want to direct your attention
7 to the night of July 20, 1993 sometime after 9:00
8 p.m. when you first learned of Mr. Foster's death.
9 Do you understand?

10 A Yes.

11 Q You testified previously that shortly after
12 you learned of Mr. Foster's death, you observed
13 Mr. Lindsey sobbing that night; is that correct?

14 A That's correct.

15 Q I think you also testified that
16 Mr. Nussbaum, when you saw him that night, appeared
17 very upset; is that correct?

18 A That's correct.

19 Q What was it about Mr. Nussbaum's physical
20 appearance that led you to believe that he was very
21 upset?

22 A Well, in the instance of Mr. Lindsey, I can

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1 recall him walking down the hallway of the ground
2 floor of the residence physically hunched over and
3 sobbing profusely.

4 Q Had you ever seen Mr. Lindsey sobbing or
5 upset in that way before?

6 A No.

7 Q Have you ever seen Mr. Lindsey upset like
8 that since the night of July 20, 1993?

9 A No.

10 Q I'm sorry. I interrupted you.

11 A Again, he then went into the map room. I
12 recall, as I've testified, seeing Mr. Nussbaum there
13 as well and recall him crying in the map room as
14 well. The circumstances that night were such that we
15 made every effort to make sure that the staff that
16 were so visibly moved and upset remained there until
17 the President walked upstairs so that he would not
18 have to pass by them and see his senior staff
19 exhibiting this kind of emotion obviously because at
20 that point he was unaware of Vince Foster's suicide.

21 Q Have you ever seen Mr. Nussbaum as visibly
22 upset on any other occasion as he appeared to be on

1 the night of July 20, 1993?

2 A No, I have not.

3 Q Were you present when Mr. McLarty learned
4 of Mr. Foster's death?

5 A Yes, I was.

6 Q What was Mr. McLarty's emotional reaction,
7 if you know?

8 A I was there when he was told, and I would
9 say he was stunned and winded almost by the news. He
10 literally almost bent over in a fashion upon hearing
11 the news.

12 Q What did Mr. Burton's emotional state
13 appear to be when you saw him on the night of July
14 20, 1993?

15 A I think he was --

16 MR. GIUFFRA: Do we have a time for when he
17 saw him?

18 BY MR. KRAVITZ:

19 Q After Mr. Foster's death.

20 A When he told me about it, I think he was
21 making every effort to be as helpful as he could as
22 an aide to Mr. McLarty. I was aware that he had

1 spent time in Arkansas, and I think I had recalled
2 that he was at the law firm with Mr. Foster, so I was
3 aware of his friendship with him. What I recall was
4 that he was making an effort to staff Mr. McLarty as
5 best he could, considering that Mr. McLarty was a
6 friend of Vince Foster for over 40 years.

7 Q Did Mr. Burton appear to be personally
8 upset?

9 A I think he was upset. I think he was
10 concentrating -- it seemed like he was concentrating
11 hard to do his job that evening.

12 Q To the extent you can answer this question,
13 how would you characterize the emotional state of
14 senior officials at the White House the next day on
15 July 21, 1993?

16 A Well, I think a combination of shock and
17 being quite stunned by the news. No one had any
18 answer as to -- or could give any explanation as to
19 why he would have taken his life. And people were
20 trying to share stories as you would in the aftermath
21 of such a tragic death about Vince and his life and
22 to console one another.

1 Q What about the next day, July 22, 1993? Do
2 you have any sense of what the emotional state of
3 senior officials at the White House was that day?

4 A I think it was -- it continued. I think
5 people were aware that many of the White House staff
6 would be traveling to Arkansas. While I didn't know
7 Vince Foster well, I was aware of the toll this was
8 taking on many of my colleagues, like Mr. Lindsey,
9 Mr. Nussbaum, Mr. McLarty, the President,
10 Mrs. Clinton, and other officials from Arkansas that
11 would have had a special understanding of Vince and
12 his family and his three children. I think -- I was
13 aware of the special dimensions that it must have had
14 to them because they would have known his wife or his
15 mother or his siblings or his three young children.

16 Q You testified that on the night of July 20,
17 1993 shortly after you learned of Mr. Foster's death,
18 you had a telephone conversation with Craig
19 Livingstone; is that correct?

20 A That's correct.

21 Q Did you call Mr. Livingstone or did he call
22 you?

1 A No, he called me.

2 Q Do you know why Mr. Livingstone called you
3 that night?

4 A I don't know what his purpose was. I do
5 know in that conversation he told me that he was
6 going to go to Fairfax Hospital to be with Bill
7 Kennedy to identify the body, but I don't know what
8 his purpose was in calling me.

9 Q You also testified that you spoke --
10 MR. SIMON: Do you even know that he called
11 you?

12 THE WITNESS: I should say, whether --
13 well, I know that I didn't place the call to him
14 unless --

15 BY MR. KRAVITZ:

16 Q Were you in the map room when you spoke
17 with Mr. Livingstone on the phone?

18 A No, the phones are in the hallway outside
19 of the map room.

20 Q But you weren't in your office?

21 A Correct.

22 Q So it may be the case that Mr. Livingstone

1 simply called over to the White House residence and
2 you happened to be there to answer the phone?

3 A It could have been that. I don't know if I
4 was paged to call him. The White House operator can
5 very easily find you, and they would have known we
6 were using those phones. Whether he had called the
7 White House operator to speak to me or whether indeed
8 he had tried to reach Mr. McLarty and I took the
9 phone call, I can't tell you the circumstances.

10 Q You also testified that you spoke with
11 David Watkins that night, I believe, from the
12 telephones outside the map room in the residence?

13 A That's correct.

14 Q Did you call Mr. Watkins?

15 A If I did, it would have been in response to
16 him calling me. I don't recall initiating any call,
17 but I do recall the conversation in which he said to
18 me that he was going to go to the Foster residence
19 with the Park Police.

20 Q And you don't have any understanding as to
21 why it is that Mr. Watkins thought you should have
22 that information?

1 A No. Again, I don't know whether he was
2 calling me because he knew Mack McLarty was there,
3 whether he was updating me for purposes of press
4 information. I don't know what his intent was.

5 Q You testified earlier in this deposition
6 about a series of telephone conversations that you
7 had with Phil Heymann near the end of July. And I
8 just want to ask you a couple of questions to clarify
9 the record as to when in the context of other events
10 those telephone conversations occurred.

11 Is it accurate that your first conversation
12 with Mr. Heymann relating to Mr. Foster's note took
13 place on July 28, 1993?

14 A That's my recollection, yes.

15 Q And at the time of your first conversation
16 on July 28 --

17 A I'm sorry, could you repeat your question?

18 MR. SIMON: It was with regard to the
19 note.

20 THE WITNESS: It was regarding the note?

21 MR. KRAVITZ: I believe that was my
22 question. That was certainly the intention.

1 THE WITNESS: Yes.

2 BY MR. KRAVITZ:

3 Q I don't mean to imply that was the first
4 time you ever talked to Mr. Heymann.

5 A Right. That's what I was trying to
6 clarify.

7 Q At the time that you first spoke with
8 Mr. Heymann on July 28, 1993 about Mr. Foster's note,
9 had the existence or the discovery of the note yet
10 been made public?

11 A No.

12 Q And there was then a series of
13 conversations that you had with Mr. Heymann?

14 A I had in concert with others, yes.

15 Q And were they all on that day, the 28th of
16 July?

17 A On the 28th, the question that we were
18 seeking Justice guidance on was whether to -- or how
19 the White House should proceed in acknowledging that
20 a note was found, that it was turned over to law
21 enforcement officials. It was our very strong intent
22 that we would need their approval before we did

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1 anything so as not to confuse or in any way affect
2 the ongoing investigation.

3 Q When did the White House first confirm to
4 the press and the public that a note had been found?

5 A I believe it was the evening of the 28th of
6 July.

7 Q And when did the White House first confirm
8 to the press and the public what the contents of that
9 note were?

10 A I don't believe that the White House did it
11 first.

12 Q I'm sorry, I don't mean to imply that the
13 White House was the first entity to confirm what the
14 contents were, but when was the first time that the
15 White House confirmed the contents of the note?

16 A Confirmed the contents of the note, it was
17 several days later. I believe it was the 10th.

18 Q And that was the 10th of August?

19 A Of August.

20 Q That was after the Park Police stated
21 publicly what the contents of the note were?

22 A It was only after that. Again, this entire

1 back and forth with Justice, conversations on the
2 28th and the 29th, were all meant to make quite
3 certain on our part that we would not do anything
4 that was inappropriate vis-a-vis the investigation.

5 Q You testified a lot about notes that you
6 took during your various telephone conversations with
7 Mr. Heymann at the end of July 1993. What is your
8 general practice in taking notes during telephone
9 calls? I mean, are these intended to be verbatim
10 transcripts of what someone has told you or are they
11 paraphrases?

12 A They're intended -- they're as close as I
13 can get to a conversation. I don't think they're
14 verbatim, as I've testified. There are some lapses
15 that are less clear in my notes. I would have taken
16 them to either inform someone else. Sometimes I
17 would take them to inform David Gergen if someone was
18 telling me something or my colleagues, Dee Dee Myers
19 or others, that would need to know the information
20 that was shared with me.

21 Q Mr. Giuffra asked you not only to read your
22 notes but also to tell us what you thought they

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1 meant. By "your notes," I'm still referring to your
2 notes of your telephone conversations with
3 Mr. Heymann. Is it accurate to say that your
4 testimony interpreting your notes was simply your
5 best recollection, nearly two years later as to what
6 Mr. Heymann told you during those telephone
7 conversations at the end of July 1993?

8 A I think it's accurate to say that they are
9 my best interpretation as of this day of what my
10 notes say. I can't testify that there's a host of
11 independent recollection about the specific
12 conversation on that day, but they're my best effort
13 to explain my notes.

14 Q Do you have any independent recollection of
15 your telephone conversations with Mr. Heymann?

16 A Not a significant amount.

17 Q So what you were doing in your testimony
18 earlier was simply giving your best interpretation of
19 the written notes?

20 A Yes.

21 Q You testified earlier about a question that
22 Mr. Gergen asked you on the night of July 20, 1993

1 regarding whether Mr. Foster's office was locked. Do
2 you remember that testimony?

3 A Yes, I do.

4 Q And I believe you testified that you spoke
5 with Mr. Burton, who told you that the office was
6 locked; is that right?

7 A That's my recollection.

8 Q And you then reported that back to
9 Mr. Gergen?

10 A Correct.

11 Q Do you know whether Mr. Burton -- strike
12 that.

13 Did Mr. Burton specifically say to you that
14 Mr. Foster's office door was locked as opposed to the
15 door to the White House counsel's office suite?

16 A I can't recall that distinction being
17 made. It would be my sense that the question -- I
18 would have understood the question in the response to
19 mean Vince Foster's office rather than the suite.

20 Q When you asked Mr. Burton that question,
21 did you specifically ask him about Mr. Foster's
22 office door as opposed to the door to the White House

1 counsel's office suite?

2 A I don't believe I did.

3 Q So even if you understood the question to
4 refer to Mr. Foster's office specifically, there's no
5 way that Mr. Burton would have known that that's what
6 you meant?

7 A That's correct.

8 Q I just want to ask you one question about a
9 document that's been marked Z464 through 467 in your
10 notes relating to your telephone conversation with
11 Mr. Heymann on July 29. On the final page, 467, your
12 notes indicate "PH: docs have been distributed over
13 my objections." Is that correct?

14 A Correct.

15 Q Is it your testimony that that entry does
16 not refer to anything Mr. Heymann may have said about
17 the distribution of documents that were in
18 Mr. Foster's office?

19 MR. SIMON: I don't think -- I think the
20 witness's statement is that his best recollection is
21 that that note at the bottom of that page refers to a
22 comment about the note being distributed within the

1 government.

2 MR. KRAVITZ: I understand that.

3 MR. SIMON: I don't think he opined beyond
4 that.

5 BY MR. KRAVITZ:

6 Q Let me ask you this: Does that entry in
7 your notes refer to anything that Mr. Heymann said
8 about documents that were in Mr. Foster's office?

9 MR. SIMON: I'm going to object to that.
10 You're assuming that he said anything with regard to
11 the documents in Mr. Foster's office.

12 MR. KRAVITZ: I'm actually trying to elicit
13 that he didn't. I'm asking whether he said that.

14 BY MR. KRAVITZ:

15 Q Let me ask you the simple question.

16 MR. SIMON: Thank you.

17 MR. KRAVITZ: It's hard to ask because he
18 says he doesn't have any independent recollection
19 other than his notes.

20 MR. SIMON: I understand. You can ask him
21 if Mr. Heymann discussed with him any documents in
22 Mr. Foster's office.

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1 BY MR. KRAVITZ:

2 Q Let me ask it this way: During your
3 telephone conversations with Mr. Heymann on July 29,
4 1993, did Mr. Heymann tell you that documents in
5 Mr. Foster's office as of the time of Mr. Foster's
6 death had been distributed over his objections?

7 A No, I don't recall that conversation.

8 MR. KRAVITZ: That's all I have. Thanks.

9 MR. GIUFFRA: I just have two quick
10 questions.

11 EXAMINATION

12 BY MR. GIUFFRA:

13 Q The use of the word "locked," do you recall
14 that word being used in the context of the
15 conversation with Mr. Burton or was that just your
16 recollection now?

17 A No, I hope I have testified that "locked,"
18 "secured," "sealed" are interchangeable in my head,
19 and I would give you no assurance as to what I would
20 have said that night, nor would I understand the
21 distinction.

22 Q One last question. What's your best

1 estimate of the time of the conversation you had with
2 Mr. Burton with regard to sealing, locking the
3 office?

4 A I don't know. It was obviously after a
5 conversation with David Gergen. As I've said, I
6 don't think I reached Gergen when I was in the
7 basement of the residence, which would put it after
8 10:15 or so. It could have been in a phone call from
9 the Foster residence or the President's residence.

10 So I can't place the exact time.

11 Q Would it be after 11:00 or before?

12 A Well, assuming --

13 MR. SIMON: You've already testified that
14 it was between 10:15 or 10:20 and 12:00 when you
15 left, approximately 12:00 when you left.

16 THE WITNESS: Yeah, it would have been.

17 BY MR. GIUFFRA:

18 Q You can't specify any more closely the
19 time?

20 A I cannot.

21 MR. GIUFFRA: Thank you very much.

22 (Whereupon, at 8:40 p.m., the deposition

1 was concluded.)

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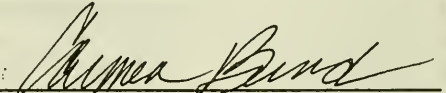
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MARK D. GEARAN

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

LEVEL 1 - 26 OF 35 STORIES

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December 21, 1993

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HEADLINE: Statement by White House Director of Communications on Foster Files

CONTACT: White House Office of the Press Secretary, 202-456-2100

DATELINE: WASHINGTON, Dec. 20

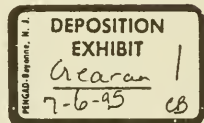
BODY:

The following is a statement by White House Communications Director Mark Gearan:

Following the death of Vincent Foster and following the examination of the files in his office on July 22, 1993, by White House Counsel in the presence of representatives of various law enforcement agencies, Mr. Foster's files were distributed as follows: 1) those files pertaining to his White House duties remained in the counsel's office; 2) those files that were personal to Mr. Foster and his family were sent to his family's personal attorney; and 3) those files that pertained to the personal legal affairs of the President and Mrs. Clinton (including documents relating to their personal tax returns, the filing of Whitewater Development Corp. tax returns, and the disposition of their interest in Whitewater) -- all of which were preserved -- were sent to the Clinton's personal attorney.

LANGUAGE: ENGLISH

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**DEPOSITION OF EVELYN S. LIEBERMAN
IN RE: S. RES. 120**

THURSDAY, JULY 6, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of EVELYN S. LIEBERMAN, called for examination pursuant to notice of deposition, at 9:40 a.m. in Room 116-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

EVERETT C. JOHNSON, JR., Esq.
Majority Deputy Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
TIMOTHY P. MITCHELL, Esq.
Minority Professional Staff Member
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

CHARLES R. BOTH, Esq.
Yablonski, Both & Edelman
1140 Connecticut Avenue, NW
Suite 800
Washington, DC 20036
On behalf of the Deponent.

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1 PROCEEDINGS

2 Whereupon,

3 EVELYN LIEBERMAN

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. JOHNSON:

8 Q Good morning, Ms. Lieberman. My name is
9 Everett Johnson. We've had an opportunity to chat
10 briefly off the record, but for purposes of the
11 record, let me tell you again who I am. I'm one of
12 the attorneys representing the Special Committee
13 investigating Whitewater and related matters and I'm
14 actually employed by the Majority staff of that
15 committee.

16 What brings us here today is Senate
17 Resolution Number 120, which creates the Committee
18 and also authorizes the Committee to investigate
19 certain matters related to what the public has come
20 to know as Whitewater. Specifically what we're
21 investigating in this round is the investigation into
22 the death of Vince Foster on or about July 20, 1993,

4

1 and more specifically the handling of the documents
2 in Mr. Foster's office in the days following his
3 death.

4 So the questions that I will ask you, and
5 when I'm concluded that Mr. Kravitz will ask you,
6 will relate generally to that topic.

7 Let me just ask you preliminarily whether
8 you have been deposed before. And I don't mean
9 specifically in connection with this, but just
10 generally are you familiar with deposition
11 procedures?

12 A Yes.

13 Q I'll just touch on a couple of obvious ones
14 that will help us be more efficient this morning.
15 Carmen is our certified court reporter, and she will
16 make a verbatim transcription of the questions that
17 we ask and the answers that you give. In order for
18 her to do that, it's important for both of us to try
19 and recall not to speak at the same time, so if
20 you'll let me finish a question before you offer an
21 answer, it's easier for her, even though at many
22 times you will know what the question is long before

1 I've completed it. If you could just wait until it's
2 completed before you answer, she'll have a more
3 accurate transcript.

4 Similarly, if you could remember to answer
5 verbally and not with gestures or other nonverbal
6 forms of communication, she's unable to record
7 those.

8 I will try to make the questions that I ask
9 you just as clear as I can make them. I'll sometimes
10 fail at that. So if at any time a question is not
11 clear to you or doesn't make sense to you, feel free
12 to say so and we'll work it around to something that
13 we both understand.

14 If you don't say so, I'm going to assume
15 that you do understand the question.

16 If you need to consult with your attorney
17 at any time, feel absolutely free to do that. If at
18 any time you would like to take a break for any
19 reason, say so and we'll do that.

20 Is that clear enough so far?

21 A Yes.

22 Q Okay, terrific. Thank you for coming down

1 this morning. Let me ask you preliminarily whether
2 or not you've met with anyone to discuss the
3 testimony that you would give here today?

4 MR. BOTH: Other than me?

5 MR. JOHNSON: She can tell me whether or
6 not she met with you and then I'll find out.

7 THE WITNESS: I met with my attorney.

8 BY MR. JOHNSON:

9 Q Was anyone else present other than you and
10 Mr. Both, your attorney?

11 A No. I'm trying to think. At one point my
12 husband was there.

13 Q I take it you did not, therefore, meet with
14 any representatives of the White House or the White
15 House counsel's office in preparation for your
16 testimony here today?

17 A That's correct.

18 Q Could you just take a moment and give us a
19 little biography? We're mostly interested in your
20 professional background.

21 A From 1966 to 1971, I was a teacher, a
22 senior high school English teacher at Hicksville High

1 School on Long Island. I moved down to Washington in
2 '71. I worked for a year at the science library in
3 Georgetown. I worked for the Housing Opportunities
4 Council from 1972 to 1976.

5 In 1976 I worked for the National Urban
6 Coalition. There was a year from 1979 to 1980 where
7 I did -- where I was a private practice consultant,
8 my primary client being the National Urban
9 Coalition. From 1981 to 1988 I was the director of
10 public affairs and publications for the Children's
11 Defense Fund. From June 1988 to January 1993, I was
12 the press secretary to Senator Biden. From January
13 1993 to October 1994, I was assistant to Maggie
14 Williams, Mrs. Clinton's chief of staff. From
15 October 1994 to the present, I am the deputy press
16 secretary for operations, reporting to Mike McCurry.

17 Q Well, that's a lot.

18 A I'm old.

19 (Laughter.)

20 Q I take it prior to 1966 you were in school
21 or in college; is that correct?

22 A Correct.

1 Q Do you have a college degree?

2 A Yes.

3 Q Where from?

4 A From Buffalo State. I graduated in 1966.

5 I have a high school diploma from Long Beach High
6 School in Long Beach, New York.

7 Q Any postgraduate degrees or work of any
8 kind?

9 A I don't have a degree, but I have 36
10 graduate credits from St. Johns University in
11 Jamaica, New York in English.

12 Q And I may get the titles a little wrong,
13 but I think you said from 1981 to 1988 you were
14 director of public affairs for the Children --

15 A And publications for the Children's Defense
16 Fund, yes.

17 Q And in that capacity, did you have an
18 occasion to meet Mrs. Clinton, now the First Lady?

19 A Yes.

20 Q Had you known either the President or
21 Mrs. Clinton prior to that time?

22 A No.

1 Q And then from '88 to '93 you worked for
2 Senator Biden, I think you said, and from '93 to '94,
3 I think you said your job title was assistant to
4 Maggie Williams; is that correct?

5 A Assistant to the chief of staff of the
6 First Lady.

7 Q Ms. Williams was the chief of staff to the
8 First Lady?

9 A Yes.

10 Q Ms. Lieberman, what role, in any, did you
11 play in the 1992 presidential campaign?

12 A None.

13 Q Why don't you, if you could, please,
14 describe your job duties as assistant to the chief of
15 staff to the First Lady.

16 A I was responsible for running the office
17 pretty much, personnel, staffing, anything --
18 assistant to Maggie on a number of issues. It was
19 pretty much everything.

20 Q And I take it you reported directly to
21 Ms. Williams?

22 A Yes.

10

1 Q Did anyone report to you?

2 A Not officially.

3 Q Unofficially did most people in the office
4 report through you to Ms. Williams?

5 A Yes.

6 Q Do I understand that correctly?

7 A Yes.

8 Q And in the course of your job duties, did
9 you have occasion to have direct contact with
10 Mrs. Clinton or did you always report only to
11 Ms. Williams?

12 A I had contact with Mrs. Clinton.

13 Q Would you describe it as regular or
14 infrequent or in some other way?

15 A Regular but not scheduled.

16 Q In the course of your job duties from time
17 to time would Mrs. Clinton sometimes ask you
18 personally to do things or would she always go
19 through Ms. Williams?

20 A Occasionally.

21 Q My question was so bad it made the answer
22 vague. Occasionally she would ask you directly?

1 A Yes.

2 Q Perhaps you could describe for us the
3 physical layout of the suite in which you worked in
4 1993 and 1994?

5 A It was in the Old Executive Office
6 Building, room 100. There was an anteroom, a
7 reception area. To the left of -- when you got
8 inside, to the left there was a conference room, to
9 the right was Maggie's office and my office. Next to
10 that was the deputy chief of staff and her
11 assistant. The next room was for volunteers and
12 interns. The next -- this is all connecting suite.
13 The next room was the press office for the two
14 deputies and whoever worked there, and the last
15 office was for the press secretary. Across the hall
16 was Mrs. Clinton's scheduler, across the hall and
17 down a bit in the same building but past the steps.

18 Q Thank you. I take it that you did not
19 personally have an office in the west wing of the
20 White House?

21 A No.

22 Q And am I correct that Ms. Williams also did

12

1 not have an office in the west wing?

2 A No, that is not correct.

3 Q She did have an office in the west wing?

4 A Yes.

5 Q Are you personally familiar with the
6 location and physical layout of that office?

7 A Yes.

8 Q Could you describe that for me as well?

9 A It's on the second floor of the west wing,
10 when you come out of the elevator it's three doors
11 down on the left.

12 Q What is its proximity to the White House
13 counsel's suite?

14 A Two offices down.

15 Q Am I correct that the office that's in
16 between them is actually the First Lady's office?

17 A Correct.

18 Q So if you walked out of the door to the
19 White House counsel's suite and into the corridor and
20 turned to the right, the first door on your right
21 would be the First Lady's office?

22 A Reception area. Her assistant sits at a

1 desk there.

2 Q You don't walk directly into her office?

3 A No.

4 Q And then the next door beyond that would be
5 Ms. Williams's office?

6 A Yes.

7 Q Are Ms. Williams's office and the First
8 Lady's office connected other than through the
9 exterior corridor?

10 A No.

11 Q I don't mean with architectural precision,
12 but if you could just give me a visual idea of the
13 physical layout in Ms. Williams's office in the west
14 wing.

15 A As soon as you walk in, the door opens. To
16 the left there's a bookcase behind it. There is a
17 small conference table and chairs to the right.
18 Beyond that is a small sofa. Her desk is to the
19 left. Opposite the sofa there are two small chairs.
20 Her desk is close to the window but facing the door,
21 and there is a, what do you call those, credenza or
22 behind -- not directly behind but over to the side.

14

1 Q Of her desk?

2 A Yes.

3 Q Is there a safe located in that office?

4 A You know, I don't know.

5 Q I assume that because you don't know, you
6 don't personally have the combination to that safe?

7 A No, I do not.

8 Q Is Ms. Williams's office alarmed? Let me
9 for purposes of clarity now -- I realize that things
10 may have changed and so unless I indicate otherwise,
11 you can assume I'm talking about roughly in the July
12 1993 time period.

13 Having said that, would you need to change
14 any of the descriptions that you have given me?

15 A No, unless she's changed her office, but I
16 don't think she has.

17 Q And I think the last question was, was
18 Mrs. Williams's office alarmed?

19 A I don't know.

20 Q Did you have a key to it?

21 A Probably. It -- probably.

22 MR. KRAVITZ: Excuse me, just so the record

1 is clear, when you're asking Ms. Lieberman if she had
2 a key to Ms. Williams's office, you mean the office
3 in the west wing?

4 BY MR. JOHNSON:

5 Q Thank you, Neal. Yes. Did you understand
6 that to be the question?

7 A Yes.

8 MR. KRAVITZ: I assume she did. I just
9 wanted to make it clear for the record.

10 MR. JOHNSON: You're quite right.

11 BY MR. JOHNSON:

12 Q You think you probably had a key. Do you
13 remember ever using the key?

14 A No.

15 Q That's why you don't know whether it's
16 alarmed?

17 A Correct.

18 Q Other than Ms. Williams, did anyone else
19 work in Ms. Williams's west wing office?

20 A No. Occasionally she would send someone
21 over there to do a project if she needed to have a
22 project done in the office, you know, things that

16

1 have accumulated there, looking through things that
2 she hadn't paid attention to, but nobody -- nothing
3 on a regular basis, no.

4 Q No one reported there every day or anything
5 of that kind?

6 A No, no.

7 Q Did Ms. Williams physically occupy her
8 office in the west wing frequently or did she work
9 frequently in the Old EOB office, just generally as
10 you observed it?

11 A She worked there and she worked in my
12 office. I can't divide the time for you.

13 Q When you say she worked there, just to be
14 clear on the record, you mean the west wing?

15 A She worked in the west wing office.

16 Q Where did she maintain her files?

17 A There were files in the reception area in
18 the Old Executive Office Building. We had some files
19 in our office, and she probably had some files over
20 there. I don't know. I'm being very tentative about
21 this because filing is not my strong suit. I mean,
22 if someone tells me to file something, I'm likely to

1 stick it under a cushion until somebody knows what
2 she's talking about comes and puts it someplace.

3 Q Who in Ms. Williams's office, and by that
4 I'm not talking physically now but in the employ of
5 the chief of staff to the First Lady, had primary
6 responsibility for maintaining the files?

7 A I would say it was the office manager. It
8 depended. I mean if things piled up, we would
9 have -- when interns came in, because we were so
10 short-staffed, if interns came in, we would give them
11 a project of fixing up the files.

12 Q Was it your impression that the majority of
13 the day-to-day working files were maintained in the
14 Old Executive Office Building or in the west wing
15 office?

16 A Oh, definitely the Old Executive Office
17 Building, in the reception area.

18 Q Now, I take it that -- well, let me strike
19 that, Carmen.

20 What responsibility, Ms. Lieberman, if any
21 did you have with respect to the First Lady's
22 schedule?

1 A I would go to scheduling meetings.

2 Q Anything else?

3 A No.

4 Q Would you see her schedule?

5 A Yes.

6 Q Would you see it daily?

7 A Yes.

8 Q Would it be routinely circulated to you and
9 others?

10 A Yes.

11 Q Is it just a piece of paper or a note card
12 that has the day's events listed on it? What was the
13 practice?

14 A It's a piece of paper.

15 Q Typically a single piece of paper?

16 A If it was a short day.

17 Q Depending on how many events, obviously?

18 A Yes.

19 Q And when the first --

20 A But if it was a short day holds, because if
21 it were a longer day it would be more than one sheet
22 of paper.

1 Q And when the First Lady traveled,
2 typically, I'm talking about routine practice now,
3 did the scheduler travel with her?

4 A No.

5 Q Who did travel -- who from the First Lady's
6 staff, if anyone, traveled with the First Lady?

7 A The press secretary.

8 Q And in 1993, who was that?

9 A Lisa Caputo.

10 Q As a matter of practice, would Ms. Caputo
11 have a copy of the First Lady's schedule with her?

12 A Yes.

13 Q I may have asked you this. If I did, I
14 apologize. Speaking now of Ms. Williams's office in
15 the west wing of the White House, which you
16 physically described to us, I think you've testified
17 that the majority of the working files were
18 maintained in the Old Executive Office Building; is
19 that right?

20 A Yes.

21 Q Do you know whether or not any other files
22 were maintained in her west wing office?

20

1 A I don't think so, and the reason I say that
2 is if I open drawers, there's usually nothing in it,
3 or books.

4 Q So at least to the best of your knowledge,
5 Ms. Williams didn't routinely maintain her files in
6 her west wing office?

7 A That's correct.

8 Q Did you want to supplement that in some
9 way?

10 A No.

11 Q And I think you said you were in the job as
12 assistant to the chief of staff to the First Lady in
13 1993 and 1994; is that correct?

14 A That's correct.

15 Q How did you get that job?

16 A I don't know. Maggie called and she said
17 would you -- I'm going to be Mrs. Clinton's chief of
18 staff. Would you help me out.

19 Q And had you known Maggie Williams prior to
20 that time?

21 A Yes.

22 Q How did you know her?

1 A We worked together at the Children's
2 Defense Fund.

3 Q In your capacity as assistant to the chief
4 of staff to the First Lady, I take it you had a White
5 House pass that enabled you to go anywhere within the
6 White House complex; is that correct?

7 A That's correct.

8 Q So you could freely walk in and out of the
9 west wing?

10 A That's correct.

11 Q Did your pass enable you to enter the
12 residence of the first family?

13 A What do you mean by "the residence"?

14 Q Well, the upper floors of the mansion.

15 A Nobody's pass enables them to -- the answer
16 is no. I don't know how it works, but no.

17 Q Had you ever been -- did you ever enter the
18 private living quarters of the President and First
19 Lady?

20 A Yes.

21 Q Without -- for the moment at least, without
22 saying why, can you say how frequently you've been

22

1 there?

2 A Very infrequently.

3 Q You have now worked in the White House or
4 in the White House complex for a little over two
5 years, I take it; is that right?

6 A Yes.

7 Q During that period of time, just ballpark,
8 how many times do you think you've been in the
9 residence?

10 A 10. I'm making that up, but 10.

11 Q I understand it's a very rough estimate.
12 Do you know whether or not the First Lady has a
13 private office in the residence?

14 A No.

15 Q Do you know whether or not the President
16 has a private office in the residence?

17 A Yes.

18 Q I take it he does have a private office?

19 A Yes.

20 Q Have you been in that?

21 A Yes.

22 Q Do you remember when?

1 A I think it was probably a few months into
2 the administration. I'm trying to think if somebody
3 was giving us a tour or something. I don't remember.

4 Q And to the best of your recollection, is
5 that the only time you've been in that office?

6 A Yes.

7 Q Sometime in 1994 you changed jobs in the
8 White House to your present job.

9 A That's correct, yes.

10 Q I won't try and be overly precise with the
11 questioning. Can you just kind of tell us how that
12 transpired?

13 A I think they were looking at reorganizing
14 the press operation and they asked me to go over --
15 they asked me if I would be interested in becoming
16 the deputy press secretary for operations.

17 Q Who was the "they"?

18 A I think Maggie talked to me about it
19 initially and then asked me to go and interview and
20 then set up an interview with me -- for me with Leon
21 Panetta.

22 Q Mr. Panetta was the chief of staff at that

1 time; is that right?

2 A Yes.

3 Q To whom do you report, Ms. Lieberman, in
4 your present position?

5 A McCurry, Mike McCurry, press secretary.

6 Q You report directly to Mr. McCurry?

7 A Yes, I'm his deputy.

8 Q Does anyone report to you?

9 A Everybody in the press and media affairs
10 operation reports to McCurry, but they report to
11 McCurry through me.

12 Q Is it fair to describe you as the number 2
13 person in the communications office?

14 A Yes. In the press office, but just for
15 operations. I'm not a press secretary.

16 Q Well, thank you for clarifying that.
17 What's the difference?

18 A That means I take care of the
19 administrative and the day-to-day operations, but I'm
20 not an on-the-record spokesman.

21 Q Do you have in your present position any
22 responsibility for drafting press releases?

- 1 A No, but I will edit them on occasion.
- 2 Q As a matter of policy, do all press
- 3 releases issued by the White House come through your
- 4 desk?
- 5 A Through my desk?
- 6 Q As a matter of policy, do you review them
- 7 all before they go out?
- 8 A No, no.
- 9 Q How is it determined which ones you do
- 10 review and which ones you don't?
- 11 A That's a good question. Let's say if
- 12 they're less than routine; but if you ask me how to
- 13 clarify that, I can't.
- 14 Q Thank you. That's helpful. Now, my memory
- 15 is failing. When you took your present position in
- 16 1994, was Mr. McCurry in his position at that time?
- 17 A No.
- 18 Q Who was the press secretary at that time?
- 19 A Dee Dee Myers.
- 20 Q And you reported to Ms. Myers; is that
- 21 correct?
- 22 A That's correct.
-

- 1 Q Did you interview with Ms. Myers for the
- 2 job or just with Mr. Panetta?
- 3 A I talked to everybody in the communications
- 4 and press offices, but I can't remember in what
- 5 sequence.
- 6 Q Whether it was before or after you decided
- 7 to take the position?
- 8 A That's correct.
- 9 Q I take it you had known Ms. Myers prior to
- 10 changing jobs; is that correct?
- 11 A I knew her in my capacity as Maggie's
- 12 assistant.
- 13 Q How would -- before taking the job in the
- 14 press office, how well did you know Ms. Myers? I
- 15 realize that's vague, but were you good friends,
- 16 casual acquaintances?
- 17 A The latter, casual acquaintances.
- 18 Q And I am assuming, but I need to ask you
- 19 anyway, that your changing jobs was a promotion and
- 20 done entirely voluntarily?
- 21 A That's correct.
- 22 Q Who replaced you as the assistant to

1 Ms. Williams?

2 A Marjorie Tarmey.

3 Q And is she still in that job today?

4 A No.

5 Q Is she still employed at the White House
6 today?

7 A No.

8 Q She left the employ all together?

9 A That's correct.

10 Q How long did she serve as the assistant to
11 Ms. Williams?

12 A I think seven months, seven or eight
13 months.

14 Q Who replaced Ms. Tarmey?

15 A Debra Both.

16 Q B-o-t-h?

17 A Yes.

18 Q Is she presently in that job?

19 A Yes.

20 Q Off the record.

21 (Discussion off the record.)

22 BY MR. JOHNSON:

1 Q What, if anything, do you know,

2 Ms. Lieberman, about the circumstances surrounding

3 Ms. Tarmey's separation from that job?

4 A What do you mean?

5 Q Well, was she fired?

6 A I think Maggie and she came to a mutual
7 agreement that it wasn't working out as either had
8 hoped.

9 Q And do you know -- strike that, Carmen.

10 What, if anything, do you know about why it
11 wasn't working out? Did it relate to any particular
12 topic or series of events or anything of that kind?

13 A No, it did not.

14 Q Just not a good match?

15 A Exactly.

16 Q Let me just try and make a footnote for
17 myself around a topic. When you reported to
18 Ms. Myers -- let me ask you first of all when in 1994
19 you assumed.

20 A October.

21 Q October of 1994. From that time really
22 through and including today, have you been involved

1 in any of the press activities, and I mean that
2 generally to include press releases or briefings,
3 touching on the topic of Mr. Foster's death or the
4 investigation into his death?

5 A No.

6 Q There were a lot of -- I don't mean "a lot"
7 in any pejorative sense. There were a number of
8 press releases issued by the White House and a number
9 of briefings into 1994; I apologize, I don't remember
10 the dates. Is it your best recollection that that
11 was largely over by the time you assumed your job?

12 A Yes, I believe so. I believe so.

13 Q In your present position, Ms. Lieberman, do
14 you have any responsibility to the First Lady or to
15 anyone on her staff?

16 A No.

17 Q I don't mean to oversimplify it, but your
18 present job just doesn't enter into the First Lady's
19 realm at all?

20 A I call a week-ahead meeting where all the
21 press secretaries for the principals, press
22 secretaries or more likely their designees

1 participate. Mrs. Clinton's press secretary, the
2 Vice President's press secretary, Mrs. Gore's office.

3 Q That's a routine --

4 A OMB, Science and Tech -- yeah, all the
5 little press pockets around the White House would
6 participate in this.

7 Q What is your -- how much contact, if any,
8 do you have with the First Lady in your present job?

9 A Oh, very little.

10 Q Do you think of your relationship with her
11 as entirely professional or are you personal friends?

12 MR. BOTH: Present relationship?

13 MR. JOHNSON: Present relationship. And
14 I'm not asking you to say whether or not you like her
15 or anything like that. I'm just asking --

16 THE WITNESS: I do, I'll go on the record
17 as saying yes, I like her very much.

18 BY MR. JOHNSON:

19 Q I thought you might.

20 A Obviously my relationship is professional
21 because she's the First Lady. Are we friends?

22 Q Do you socialize together?

1 A We are at events together, yes.

2 Q Let me ask you the same question, obviously
3 constrained by your knowledge, about Ms. Williams's
4 relationship with the First Lady. Are they close
5 friends?

6 A It's a funny question. They work together
7 professionally and they like each other very much.

8 Q And to the best of your knowledge, that's
9 true today?

10 A Yes. Excuse me.

11 MR. JOHNSON: Why don't we actually take a
12 five-minute break.

13 (Recess.)

14 BY MR. JOHNSON:

15 Q Ms. Lieberman, what I would like to do now
16 is return in time to specific events surrounding
17 Mr. Foster's death in July of 1993. This is the time
18 when you were still working for Ms. Williams; is that
19 correct?

20 A Correct.

21 Q What were ordinarily your working hours?

22 A Probably 8:00 to 8:00.

1 Q It was common for you to be at the White
2 House into the evening; is that right?

3 A Yeah.

4 MR. KRAVITZ: And now we can understand why
5 Mr. Both thinks it's unfortunate that his wife holds
6 that position.

7 MR. BOTH: Touche.

8 BY MR. JOHNSON:

9 Q Do you recall whether or not you were
10 working on July 20, 1993?

11 A I was.

12 Q That was the day in which you work, I take
13 it?

14 A Yes.

15 Q Let me also ask you, focusing sort of at
16 that time period, whether or not you would have
17 recognized certain other people who were working in
18 or around the White House at that time.

19 A For example?

20 Q Patsy Thomasson.

21 A Yes.

22 Q Craig Livingstone?

1 A I know him now. I can't remember if I
2 would have recognized him then. Probably yes.
3 Q Mr. Nussbaum?
4 A Yes.
5 Q Cliff Sloan?
6 A Did I know him then? I don't remember.
7 Q Maybe, maybe not?
8 A Yeah.
9 Q Steve Neuwirth?
10 A Yes.
11 Q Mr. McLarty, I take it you would have
12 recognized?
13 A Yes.
14 Q I think we've already established that you
15 would have recognized Ms. Myers at that time.
16 A Yes.
17 Q David Watkins?
18 A Yes.
19 Q William Kennedy?
20 A Yes. Yes. The reason I'm hesitating is
21 because I don't remember when I knew these people,
22 when I began to know these people. Yes on Kennedy.

1 Q Would you have recognized at that time
2 Mr. Nussbaum's secretary, Ms. Pond?
3 A I may have known -- I may have recognized a
4 face. I wouldn't have known the name.
5 Q Do you know her today?
6 A No.
7 Q What about Debra Gorham, Mr. Foster's
8 secretary?
9 A I had spoken to her on the phone. I did
10 not know what she looked like. Again, I may have
11 known the face, not necessarily connected the face
12 with the name.
13 Q Linda Tripp?
14 A No.
15 MR. BOTH: Who is Linda Tripp?
16 MR. JOHNSON: Another assistant to
17 Mr. Nussbaum.
18 BY MR. JOHNSON:
19 Q Tom Castleton?
20 A No. Tom Castleton worked in the counsel's
21 office?
22 Q He was an intern, I believe, in the White

1 House counsel's office.

2 A No.

3 Q Maybe you wouldn't have known his name, but
4 might have recognized his face. I have never seen
5 Mr. Castleton, but he's been described to us in other
6 depositions as an Asian American or a part Asian
7 American.

8 MR. KRAVITZ: I have actually -- I was in
9 the same room with him for about six hours when we
10 deposed him. He's not Asian American.

11 THE WITNESS: May I go off the record for
12 one --

13 MR. JOHNSON: Sure.
14 (Discussion off the record.)

15 BY MR. JOHNSON:

16 Q Mr. Kravitz has pointed out to me that I
17 may have misspoken, that Mr. Castleton's actual title
18 at that time was special assistant to the White House
19 counsel. That doesn't change your recollection of
20 him, I take it?

21 A No, it does not change it.

22 Q Do you know an individual who worked in the

36

1 White House at that time whose last name was Pastor?

2 A Yes.

3 Q What was his first name?

4 A Howard.

5 Q What was Mr. Pastor's title in 1993, if you
6 recall?

7 A I think he was director of legislative
8 affairs. I think that's what the title is for
9 someone in that job.

10 Q Would you have recognized at that time
11 Sylvia Mathews?

12 A No, not then. I have come to since know
13 her but I don't think I knew her then.

14 Q And I take it you would have recognized
15 Mr. Foster?

16 A Yes.

17 Q How would you describe your relationship
18 with Mr. Foster?

19 A Nonexistent.

20 Q Not personal friends and no reason to
21 interact professionally; is that correct?

22 A Other than as an intermediary between

1 Maggie and Mr. Foster, setting up an appointment,
2 telephone conversation.

3 Q You don't recall having any substantive
4 interaction with Mr. Foster?

5 A No.

6 Q Prior to July 20, 1993, had you been in
7 the -- without implying any time after, I just want
8 to divide time in half. Prior to Mr. Foster's death,
9 do you recall ever having been in the White House
10 counsel's suite?

11 A Probably.

12 Q Do you remember what for?

13 A No.

14 Q Would you have been -- had you been in
15 there often?

16 A No.

17 Q Do you know whether or not you'd ever been
18 in Mr. Foster's office prior to his death? I'm
19 distinguishing that now from the counsel's suite.

20 A I understand. I don't think I was.

21 Q Before I set off on that diversion, I think
22 I was asking you whether or not you recall working at

38

1 the White House on July 20, 1993. Were you at work
2 that day?

3 A I think yes.

4 Q Do you know what time you may have left
5 work, what was the end of your working day on the
6 20th?

7 A No.

8 Q When did you first learn of Vince Foster's
9 death?

10 A That night.

11 Q Do you recall today how you learned?

12 A Maggie called me.

13 Q What time of night do you recall, if you
14 do, that Ms. Williams called you?

15 A I think it may have been close to 10:00.
16 It was late at night.

17 Q Were you at home?

18 A Yes.

19 Q Do you know where Ms. Williams was when she
20 called you?

21 A Home.

22 Q How do you know that?

1 A Because when I went to pick her up, that's
2 where she was.

3 Q That's a good reason.

4 What do you recall, if anything, about that
5 telephone conversation?

6 A Maggie was very upset. She said -- she
7 told me that Vince was dead. I don't know whether
8 she said he was dead or he killed himself. I said
9 I'm coming to get you.

10 Q Do you remember anything else?

11 A No.

12 Q Why were you coming to get her?

13 A I guess I didn't know what else to do. I
14 wanted to -- that she shouldn't be alone.

15 Q And with apologies in advance, you'll
16 understand that this is an area that I want to go
17 through with some care and I know it will seem
18 redundant or tedious or perhaps even more redundant
19 and tedious than before.

20 In that telephone conversation, did
21 Ms. Williams say whether or not she had spoken to
22 anyone else?

1 A I think it was a very brief conversation.
2 I don't remember anything like that.

3 Q Did you say to her, for example, "have you
4 called the First Lady?"

5 A I don't think so.

6 Q You don't remember any discussion in that
7 phone call about whether or not the First Lady had
8 been informed?

9 A No.

10 Q Did Ms. Williams indicate to you how she
11 knew that Mr. Foster --

12 A No, I don't think so. I don't remember but
13 I don't think so.

14 Q Do you know today how she knew?

15 MR. BOTH: Independently or from what she's
16 read or --

17 MR. JOHNSON: From any source really and
18 then we'll nail it down.

19 THE WITNESS: No, I don't remember how she
20 knew. I didn't know how she knew. I'm trying to
21 figure out now if I know how she knew. I don't know
22 how she knew.

1 BY MR. JOHNSON:

2 Q And you described Ms. Williams's demeanor
3 as very upset on the telephone; is that correct?

4 A Yeah, she was very upset and it wasn't
5 really a time for conversation.

6 Q I understand. Was she crying?

7 A I think so.

8 Q And your best recollection is that this was
9 sometime after 10:00 on the evening of the 20th?

10 MR. BOTH: No, I think what she said is
11 around 10:00.

12 THE WITNESS: No. I think it was 9:00 -- I
13 don't know. I don't know. Late.

14 BY MR. JOHNSON:

15 Q 10:00, plus or minus some time?

16 A Right.

17 Q And I'm assuming, but I should ask you that
18 your conversation with Ms. Williams was very brief?

19 A Yes.

20 Q Did she call you on your ordinary home
21 telephone or did you have a pager or a cell phone?

22 A No, she called me on my home phone.

1 Q What's the next thing that you did?

2 A I said stay there. I'm coming to get you.
3 I probably put on a pair of shoes and I got into my
4 car and went and got her.

5 Q How far away from Ms. Williams do you live?

6 A At that time we were living very close.

7 Q If you can estimate for me just how much
8 time elapsed between when you spoke with her and when
9 you arrived at her home.

10 A 15 minutes.

11 Q So we're still --

12 A I'm making this up, but 15 minutes.

13 Q It's your estimate today of how long it
14 would have taken; you don't have any specific
15 recollection?

16 A Yeah, correct.

17 Q Do you recall what time you arrived at
18 Ms. Williams's home? Does she live in a home or
19 apartment?

20 A She lives in an apartment. What was the
21 question?

22 Q Do you have any idea today what time you

1 actually arrived there?

2 A It was probably around 10:00. I don't
3 know.

4 Q Did you personally call anyone else?

5 A No.

6 Q And I assume you didn't ask anyone like
7 your husband or any other person to make any
8 telephone calls?

9 A No.

10 Q What happened after you arrived at
11 Ms. Williams's home?

12 A I'm trying to think. I think she came out
13 to the car.

14 Q You did not physically go into her
15 apartment?

16 A I don't think I did. I don't think I did.
17 And we drove over to the White House.

18 Q Now, when you said to Ms. Williams "I'm
19 coming to get you," did you and she discuss that you
20 were going to the White House?

21 A No.

22 Q Did you assume that's where you were going?

1 A Yeah, maybe. I don't know. I'm not sure
2 that -- I don't know.

3 Q How did Ms. Williams know that you had
4 arrived?

5 A I can't remember. I don't know if I told
6 her to meet me outside or if I sounded the horn. I
7 don't know.

8 Q At some point, however, you recall that she
9 got into your car and you were driving?

10 A Yes, uh-huh.

11 Q And that where you drove was to the White
12 House?

13 A Yes.

14 Q You don't remember discussing with
15 Ms. Williams whether you should go to the White House
16 or why you should go to the White House?

17 A No.

18 Q Why did you think you were going to the
19 White House?

20 A I don't know. Maybe to answer phone calls,
21 maybe to take calls. I'm not sure I really thought
22 it out.

1 Q I don't mean to put words in your mouth.
2 I'm just --

3 A I understand.

4 Q Did it just seem to you like the thing to
5 do, to go to the White House?

6 A Yes.

7 Q What do you recall, if anything, about your
8 conversations with Ms. Williams in the car on the way
9 to the White House?

10 A I'm not sure there were any conversations.
11 I think Maggie was very upset.

12 Q Do you recall her crying?

13 A Yeah, I do.

14 Q What was your emotional state?

15 A I was concerned about Maggie. I did not
16 know Vince, as I explained to you before, our
17 interactions were very few and so my emotions were, I
18 guess, being upset about the circumstances, being
19 upset about Maggie, of course for anybody. It's a
20 horrible thing, but there wasn't that same emotional
21 attachment.

22 Q You weren't personally distraught in the

1 way she was?

2 A No.

3 Q And I take it you just don't remember
4 anything about your conversations with Ms. Williams?

5 A No.

6 Q Let me just --

7 MR. BOTH: Let me object to that. She
8 remembers her conversation. She says there was no
9 conversation. She said that Maggie Williams was
10 upset and distraught in the car and there wasn't
11 conversation. Now you say you don't remember
12 anything about the conversation. She has a
13 recollection that there was no conversation.

14 BY MR. JOHNSON:

15 Q You specifically recall that you didn't
16 speak to each other?

17 A I don't think we did. Also it was a very
18 short ride.

19 Q How long is the ride?

20 A Maggie lives on the 1700 block of
21 New Hampshire. It's right there.

22 Q A matter of minutes?

1 A Yes.

2 Q And just to make sure what your counsel
3 said is accurate, I think it is, but you don't
4 recall -- your recollection today is that you and
5 Ms. Williams didn't speak to each other in the car?

6 A I don't believe we did.

7 MR. BOTH: So that you know the proximity,
8 also to make this record a little clearer, the
9 distance between Evelyn Lieberman's home and Maggie
10 Williams's home at that time is approximately six
11 blocks.

12 MR. JOHNSON: She testified that it took
13 her about 15 minutes.

14 MR. BOTH: No, from the time she terminated
15 the telephone call to the time that Maggie Williams
16 got into her car. That means she got her shoes, she
17 got her car -- went to her car, got her car, drove to
18 Maggie Williams's house and picked up Maggie
19 Williams. Six blocks.

20 BY MR. JOHNSON:

21 Q Since your counsel is not under oath, let
22 me ask you if what he said is right. Is that what

1 happened?

2 A That's correct.

3 Q Got your shoes, got your car, drove six
4 blocks to Ms. Williams's house?

5 A Yes.

6 Q Just to be -- your counsel makes a good
7 point. I want to be very clear. At this point in
8 time, by the time you arrived at the White House, you
9 and Ms. Williams had never discussed the fact that
10 you were going to the White House or why; is that
11 correct?

12 A I don't think we discussed it. I think I
13 probably said let's go to the White House or we're
14 going to the White House. If it came from anywhere
15 it came from here (indicating), from me.

16 Q "Here" meaning you?

17 A From me. I don't think there was any
18 discussion.

19 Q Just to be especially clear, by the time
20 you arrived at the White House, Ms. Williams had
21 still not indicated to you in any way that she had
22 spoken to anyone else about Mr. Foster's death?

1 A If you've ever been in circumstances like
2 these, you may or may not have, there's not much
3 questioning really back and forth. It's how are you
4 doing. Don't be upset. That's the conversation.

5 Q But not did you call Hillary or did Hillary
6 call you?

7 A No.

8 Q That wouldn't be a question that you would
9 have asked?

10 A No.

11 Q I take it the next thing that happened is
12 that you and Ms. Williams arrived at the White House
13 complex; is that correct?

14 A That's correct.

15 Q Where did you enter the White House that
16 evening?

17 A In the southwest gate.

18 Q Did you drive through?

19 A Yes.

20 Q Did you park on the West Executive Avenue?

21 A Yes.

22 Q Do you routinely have a parking place

50

1 there?

2 A Yes.

3 Q So you just parked where you park?

4 A I don't know.

5 Q And did you -- where did you go after you
6 parked the car?

7 A We went into the west wing.

8 Q Why?

9 A Because we were going to go upstairs to
10 Mrs. Clinton's office. I was going to use that as my
11 base.

12 Q Had you discussed that with -- this with
13 Ms. Williams at this time?

14 A You know, I don't know. I don't know how
15 we actually made the decision to go upstairs. I
16 don't think it was anything conscious.

17 Q And you said that you were going to use
18 that as your base. Your base for what?

19 A I thought that there would be phone calls
20 coming in.

21 Q And why did you think it was appropriate to
22 go to Mrs. Clinton's office to handle those phone

1 calls?

2 A Because there was both a line to -- let me
3 just preface what I'm saying to you by saying there
4 was no conscious thought about it. It was an
5 automatic thing, and I thought that there was a line
6 there, people could have -- there was Maggie's line
7 there, there was Mrs. Clinton's line there and that
8 made sense to sit at her assistant's desk, her
9 secretary's desk.

10 Q "Maggie's," meaning Maggie Williams, I take
11 it?

12 A No, Mrs. Clinton's assistant's desk.

13 Q I misspoke. You said a moment ago there
14 was Maggie's line there and Mrs. Clinton's line
15 there.

16 A Right.

17 Q The Maggie you were referring to is Maggie
18 Williams?

19 A Yes.

20 Q She has a telephone line into
21 Mrs. Clinton's office?

22 A Reception area.

1 Q I see. So if someone calls Ms. Williams,
2 her phone rings in Mrs. Clinton's reception area?

3 A Yes.

4 Q If someone calls the First Lady, obviously
5 it rings in the first place?

6 A Let me clarify this by saying that if
7 people were trying -- if people were trying to
8 reach -- the general number that we gave out for
9 Maggie Williams was the office in the Old Executive
10 Office Building.

11 Q So why did you not go there?

12 A I don't know.

13 Q You don't have any recollection today? I
14 take it you also don't recall whether or not that's
15 something you discussed with Ms. Williams?

16 A I don't think we did.

17 Q Now, when you walked into the White House,
18 did you enter from what's sometimes referred to as
19 the basement entrance?

20 A Yes.

21 Q Did you proceed directly up to
22 Mrs. Clinton's office from there?

1 A Yes.

2 Q Did you notify anyone that if anyone wanted
3 to reach you, you could be reached in Mrs. Clinton's
4 office? For example, did you tell the guard or the
5 operator or anything like that?

6 A No. I told my husband, but I had to speak
7 to a guard to get in.

8 Q Get into --

9 A Mrs. Clinton's office. The door was
10 locked.

11 Q Let me ask you, first of all, you said you
12 told your husband. Before you left home?

13 A Yes. I didn't tell him where I would be.
14 I just said I'm going to the White House.

15 Q And I think you just testified that you
16 needed a guard to open the door to Mrs. Clinton's
17 office; is that correct?

18 A Yes.

19 Q Just a couple -- to cover a couple of
20 obvious points. You therefore did not have a key to
21 Mrs. Clinton's office?

22 A Correct.

1 Q Do you know whether or not Ms. Williams had
2 a key?

3 A She probably did. I don't know. Actually
4 I don't know if she probably did.

5 Q I take it you didn't discuss with her that
6 evening whether or not she had her key with her or
7 something like that?

8 A No, I did not.

9 Q How did you -- just describe for us if you
10 would how you contacted the guard and how you got
11 in.

12 A I think I called from the telephone
13 opposite the elevator at the top of the steps, I
14 think.

15 Q At the top of the steps, do you mean on the
16 floor in the west wing where Mrs. Clinton's office
17 is?

18 A Yes.

19 Q Am I right that that's the second floor?

20 A Yes.

21 Q And you called a Secret Service guard in
22 the White House?

- 1 A I called the operator.
2 Q I realize that precise words would be hard
3 to remember, but what do you think you said?
4 A I probably identified myself and I said I'm
5 with Maggie Williams and we would like to get into
6 Mrs. Clinton's office, I need someone to open
7 Mrs. Clinton's office.
8 Q Then what happened?
9 A Then someone came up and opened the office.
10 Q Do you know who that was?
11 A No.
12 Q Do you know today who it was?
13 A No.
14 Q Uniformed officer?
15 A Yeah, it must have been.
16 Q Did you have any conversation with the
17 officer who opened the office that you recall?
18 A Not that I remember.
19 Q Did they --
20 A Thank you, whatever.
21 Q The normal cordialities?
22 A Uh-huh.
-

- 1 Q I assume therefore that they did not
2 question your reason for wanting to be in the office
3 or anything like that?
4 A No, no.
5 Q And then did you and Ms. Williams go into
6 Mrs. Clinton's office?
7 A We went into the anteroom, the small
8 anteroom. There's a desk immediately, it's not even
9 a desk, immediately as you come in.
10 Q I realize that precise recollection of time
11 is difficult, but what time more or less do you think
12 it is now on the evening of the 20th?
13 A 10:30, question mark.
14 Q As you entered the White House through the
15 basement floor of the west wing and proceeded up to
16 Mrs. Clinton's office, did you see anyone that you
17 recognized?
18 A I don't remember. I don't think so. I
19 don't remember.
20 Q What's the next thing you do remember after
21 you entered the anteroom?
22 A I sat down at the telephone.

- 1 Q What's the next thing you remember?
2 A I probably called my husband at some point.
3 Q What did Mrs. Williams do?
4 A I don't know. I think she probably went
5 downstairs. I don't know.
6 Q She didn't remain in the anteroom with you?
7 A Oh, I'm sure she did for a while.
8 Q To the best of your recollection, did
9 either you or Ms. Williams physically enter the First
10 Lady's office?
11 A I don't remember.
12 Q I think the question was badly phrased.
13 Did you enter the First Lady's office?
14 A I don't remember. I was trying to think of
15 whether the door was closed or locked. I don't
16 remember. We may have walked in to sit down. I
17 haven't -- I just don't remember.
18 Q Now, at this point in time, do you remember
19 anything about your conversations with Ms. Williams?
20 A No. There was a lot of are you okay, but
21 other than that.
22 Q And I take it, tell me if I'm wrong, but I
-

- 1 take it that even as you sat in the First Lady's
2 office that night, you were not personally aware of
3 whether or not Mrs. Clinton even knew about
4 Mr. Foster's death?
5 A That's correct.
6 Q And you did not discuss whether or not it
7 would be appropriate to call Mrs. Clinton with
8 Ms. Williams?
9 A Did I discuss it with her? No, I don't
10 think so.
11 Q Help me understand that a little bit if you
12 can. Do you recall whether or not it entered your
13 mind to try and notify Mrs. Clinton?
14 A No, I don't recall, but in my opinion,
15 concern then was to make sure that Maggie was okay,
16 and that was pretty much my concern throughout the
17 evening and my role and my objective there. I don't
18 think I was thinking anything other than making sure
19 she was fine. I don't mean to sound like Florence
20 Nightingale, but I was there as support and to do
21 whatever had to be done, if anything had to be done.
22 Q You testified earlier that it was your idea

1 to go to the White House, to the best of your
2 recollection?

3 A That's correct.

4 Q And I think you said that at some point in
5 time, Mrs. Williams may have gone downstairs; is that
6 correct?

7 A Yes.

8 Q Why do you think that?

9 A I think she may have gone to the press
10 office, she probably went to talk to some people.

11 Q Why do you think that?

12 A Well, she came back with a press release.

13 Q I take it you recall that for some period
14 of time she was not in the anteroom with you; is that
15 correct?

16 A Yes, that's correct.

17 Q And then you recall at some point in time
18 that she came back with the press release; am I
19 right?

20 A Yes.

21 Q How much time elapsed?

22 A I don't know.

1 Q Can you place it at all in time for example
2 as being more or less than a half-hour?

3 A No, I can't.

4 Q Is the only reason that you believe she
5 went to the press office is that she came back with a
6 press release or did she say something to indicate to
7 you she had been in the press office?

8 A I don't remember.

9 Q When you physically entered the west wing
10 on that evening, did you come up the stairs or the
11 elevator?

12 A Knowing us, the elevator.

13 Q The elevator is, I believe, just outside
14 the White House counsel's suite, isn't it?

15 A Yes.

16 Q Did you notice when you got off the
17 elevator whether or not the White House counsel's
18 suite, the door to that suite was opened or closed?

19 A I don't remember. It probably was, but I
20 don't remember.

21 Q Probably was what?

22 A Open. Actually let me not say that. I

- 1 don't remember.
- 2 Q From the time you entered the anteroom
- 3 until you remember that Ms. Williams came back with a
- 4 press release, had you spoken with anyone other than
- 5 perhaps your husband and the guard who let you in?
- 6 A I don't think so.
- 7 Q Did the telephone ring?
- 8 A No, I don't think so.
- 9 Q What do you remember next after
- 10 Ms. Williams returned with the press release?
- 11 A I think I said let's get out of here.
- 12 Q Did you read the press release?
- 13 A Yes.
- 14 Q What was it about?
- 15 A I think so. I think it was probably about
- 16 Vince.
- 17 Q You don't remember more specifically?
- 18 A No.
- 19 Q And you think you said to Ms. Williams
- 20 words to the effect of let's get out of here or why
- 21 don't we leave or something like that; is that
- 22 correct?

- 1 A Yes.
- 2 Q Then what's the next thing that happened?
- 3 A I don't remember. I don't remember whether
- 4 we left then, but I think probably we got out of
- 5 there.
- 6 Q Did you leave with Ms. Williams?
- 7 A Yes.
- 8 Q What, if anything, did Ms. Williams do with
- 9 the press release that she was carrying?
- 10 A I don't know. I don't know if I took it,
- 11 if she took it. I don't know.
- 12 Q Is it possible it was left there?
- 13 A Possible.
- 14 Q You didn't put it in Ms. Williams's office,
- 15 though, I take it?
- 16 A No.
- 17 Q And I think I asked you whether or not you
- 18 and Ms. Williams left together.
- 19 A Yes.
- 20 Q And you did leave together; is that
- 21 correct?
- 22 A Yes.

1 Q When you left, where did you go?

2 A I don't remember if I took her to her house
3 or to my house. I don't remember. I drove her, but
4 I don't know where I drove her.

5 Q But you left the White House complex?

6 A Yes.

7 Q As you were walking out of Mrs. Clinton's
8 office to leave the White House complex, how did you
9 physically leave? Did you walk down the stairs, go
10 down the elevator?

11 A We probably went in the elevator. I don't
12 remember, but we probably did.

13 Q Did you see anyone else?

14 A Not that I remember.

15 Q Did you take anything with you?

16 A I don't think so, no.

17 Q Had you carried a purse in?

18 A I don't remember.

19 Q Do you remember whether or not Ms. Williams
20 had carried a purse in?

21 A I don't remember.

22 Q Whether or not she carried a purse, do you

1 remember whether or not Ms. Williams was carrying
2 anything when you left?

3 A No, I don't think she was. She may have
4 had the press release. I don't remember.

5 Q I take it when you left Mrs. Clinton's
6 office, that someone locked the door?

7 A I think so. I guess it would have had to
8 have been, probably.

9 Q Do you remember who?

10 A No.

11 Q Would it have been necessary to call the
12 Secret Service to lock the door or is it possible to
13 lock it yourself?

14 A That's what I was just thinking as I was
15 answering. I think probably somebody would have had
16 to have locked it.

17 Q Do you recall whether or not you asked
18 someone to lock it?

19 A It's possible. I probably did, but I don't
20 remember that part of it.

21 Q When you were at the -- how long do you
22 estimate you were physically in Mrs. Clinton's office

1 that evening?

2 MR. BOTH: You mean anteroom to
3 Mrs. Clinton's office?

4 MR. JOHNSON: Yes.

5 THE WITNESS: I don't know. Hour and a
6 half. Hour, hour and a half, two hours. I don't
7 know. Two hours is probably long.

8 BY MR. JOHNSON:

9 Q So is it fair to say more than an hour, but
10 less than two hours?

11 A Yeah, that's fair.

12 Q Other than physically walking up to enter
13 the interior into Mrs. Clinton's office and then
14 leaving, did you ever leave that office?

15 A I don't think so.

16 Q Your recollection is that you sat there by
17 the phone the entire time?

18 A Yes.

19 Q Did it ever ring?

20 A No, I don't think so.

21 Q Did you ever place, yourself, any telephone
22 calls?

1 A Yes, I think I called my husband.

2 Q Which is the call you've described to me
3 earlier, isn't it?

4 A Yes.

5 Q Other than that, did you call anyone else?

6 A I don't think so.

7 Q For the entire time that you were in the
8 White House that evening, did you see anyone that you
9 recognized?

10 A You know, I don't remember. I know this
11 has been asked before. I don't remember.

12 Q Let me just throw some names out to see if
13 it jogs a memory or not. Not to disagree with you,
14 just to see if it refreshes a memory. Do you recall
15 Mr. Nussbaum, seeing him that night in the White
16 House?

17 A You know, of the names you said before, the
18 answer is I may have, but I don't know if I'm saying
19 that because I've subsequently learned they were
20 there. You know, this is two years ago, and I'm
21 trying to -- so I can't remember if what I'm saying
22 to you -- I'm saying to you because I have since

1 learned that they have been there or whether I saw
2 them. I don't remember.

3 Q That's fair. It's possible that you saw
4 them but today you just can't say for sure?

5 A Not all of the names you mentioned, but
6 yeah, I can't remember.

7 Q Let me ask you the same question with
8 respect to Ms. Thomasson. Do you know whether or not
9 you saw her there?

10 A I don't remember. And Patsy is one I'm
11 putting in that category.

12 Q Because you have since learned that she was
13 there that night?

14 A Right, right.

15 Q I think you said that at some time more
16 than an hour, but probably less than two hours, you
17 left with Ms. Williams; is that correct?

18 A Yes.

19 Q And you don't specifically recall whether
20 you went to your house or her house; is that right?

21 A That's correct.

22 Q But you remained together, you do remember

1 that?

2 A Yes.

3 Q How long that evening did you remain with
4 Ms. Williams, if you recall?

5 A If I took her to my house, we were together
6 all night. If I took her to her house, I don't know.

7 Q But either way, you think you remained
8 together for some period of time?

9 A Between when and when?

10 Q Well, after you left the White House that
11 evening.

12 A Not if I dropped her off.

13 Q It's possible that you simply dropped her
14 off at her home?

15 A Yes.

16 Q Do you recall anything about any
17 conversations with Ms. Williams that you may have
18 had -- strike that, Carmen, I'm sorry.

19 Am I correct that you don't today recall
20 having any conversations with Ms. Williams while in
21 the White House?

22 A You are correct.

1 MR. KRAVITZ: On the night of July 20.

2 BY MR. JOHNSON:

3 Q Thank you, yes.

4 A Thank you.

5 Q And what, if anything, do you recall about
6 conversations you may have had with Ms. Williams as
7 you left the White House that evening until you
8 dropped her off or took her to your house?

9 A I don't know. I don't remember.

10 Q So am I correct that as you left the White
11 House that evening, you still did not personally know
12 whether or not Mrs. Clinton was aware of Mr. Foster's
13 death?

14 A I think that's correct.

15 Q And to your best recollection, you did not
16 discuss that with Ms. Williams at any time on that
17 evening?

18 A That's my recollection. I don't know.

19 MR. JOHNSON: Why don't we take a
20 five-minute break now and then as we go off the
21 record we can talk timing.

22 (Discussion off the record.)

1 BY MR. JOHNSON:

2 Q Ms. Lieberman, I take it that you did not
3 at any time on the evening of July 20, 1993 enter the
4 White House counsel's suite?

5 A No, I don't think I did.

6 Q Let me just gain some clarity on the last
7 answer. Are you saying that you're certain one way
8 or the other or that you don't remember?

9 A I don't believe I did.

10 Q Is it possible that you did but that you
11 don't today recall that?

12 MR. BOTH: Anything is possible.

13 BY MR. JOHNSON:

14 Q Is that possible?

15 A I don't believe I did. It's possible. Is
16 it probable? No.

17 Q Did Ms. Williams at any time on the evening
18 of the 20th say to you whether or not she had entered
19 the White House counsel's suite?

20 A You mean did we have that discussion?

21 Q Did it come up in any way?

22 A No.

1 Q Did you come to know on the evening of the
2 20th whether or not you had any conversation with
3 Ms. Williams that she had entered Mr. Foster's office
4 or the White House counsel's suite?

5 A No, I don't believe so.

6 Q At some time after the 20th, the next day
7 or really up to and including today, have you ever
8 discussed with Ms. Williams whether or not she
9 entered Mr. Foster's office on the evening of the
10 20th?

11 A No.

12 Q So --

13 MR. BOTH: Vince Foster's office or the
14 White House counsel's office?

15 BY MR. JOHNSON:

16 Q Good point. Let me ask you first about
17 Mr. Foster's office.

18 A That's the question?

19 Q Yes.

20 A No.

21 Q And let me ask the same question with
22 respect to the White House counsel's suite.

1 A No.

2 Q So as you sit here today, you still don't
3 have any knowledge from any source at all, other than
4 what you may have read in the newspapers?

5 A That Maggie was in there?

6 Q Yes.

7 A That's correct.

8 Q You never have ever discussed it with her?

9 A No, I don't think so.

10 Q Were you aware that the question of whether
11 or not Ms. Williams was in Mr. Foster's office or the
12 White House counsel's suite arose at least on one
13 occasion in a press conference with the First Lady?

14 A Yes.

15 Q And at that time you never had any
16 discussions with Ms. Williams about whether or not
17 she was in Mr. Foster's office or the White House
18 counsel's suite?

19 A No.

20 Q How did you become aware that it had come
21 up in a press conference with the First Lady?

22 A I think it was in the papers. I don't

1 remember if it was in the papers before that, but I
2 think --

3 Q Has she ever said anything to you on the
4 topic at all?

5 MR. BOTH: Who is "she"?

6 BY MR. JOHNSON:

7 Q "She" being Ms. Williams.

8 A I don't think so.

9 Q Let me ask a couple of other questions. I
10 think it's clear to me that we may have covered what
11 you remember about the evening of the 20th, but let
12 me ask you a couple of other questions. Did you see
13 Howard Pastor in the White House at all that evening?

14 A I don't think so.

15 Q Do you remember at any point in time
16 introducing Ms. Williams to a Secret Service agent or
17 any other person that evening?

18 A In --

19 MR. BOTH: What do you mean? Can I get a
20 clarification what you mean by "introducing"? That
21 implies to me -- an introduction implies I know you,
22 I know you, I'm introducing the two of you because I

1 know each of you. If that's what you mean by
2 "introduction" --

3 BY MR. JOHNSON:

4 Q I guess I don't mean to be that precise.
5 Do you remember having any conversations with anyone
6 in the presence of Ms. Williams when you informed
7 anyone who Ms. Williams was?

8 A I may have. It's possible.

9 Q Just to be clear, I take it you don't have
10 a specific recollection but it's just possible that
11 something like that occurred?

12 A That's correct.

13 Q Did you at any time on that evening speak
14 to a Secret Service agent or anyone else about
15 closing or securing the White House counsel's suite?

16 A I don't think so.

17 Q Just let me compare that with your previous
18 answer. Is it possible, but you don't think so or
19 you think it didn't happen?

20 A Yes.

21 Q On the evening of the 20th while at the
22 White House, did you at any time see Maggie Williams

1 carrying any files or file folders or boxes?

2 A No.

3 Q Is that something that you believe you
4 would particularly remember or something you wouldn't
5 have noticed?

6 A I probably would have remembered putting
7 something in my car or seeing her with something.

8 Q Why do you think you would have remembered
9 that?

10 A Because I guess it would have -- I don't
11 know. I guess it would have been unusual.

12 Q Why would it have been unusual?

13 A Because we weren't there to work.

14 Q So it wouldn't have been unusual on any
15 given workday. It's just that under the
16 circumstances of that evening, if she had been
17 carrying file folders or boxes, that would have
18 struck you as unusual?

19 A That's correct.

20 Q At any time on the evening of July 20 when
21 you were at the White House, did you see anyone go
22 into Ms. Williams's office?

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1 MR. KRAVITZ: You mean her west wing
2 office?

3 BY MR. JOHNSON:

4 Q Thank you, her west wing office.

5 A I probably wouldn't have seen somebody go
6 into her office. Somebody would have had to have
7 passed where I was sitting. You can't see her door
8 from where I sat, but I don't remember seeing anybody
9 go in there, or anybody passing.

10 Q You don't have any recollection of seeing
11 that?

12 A No

13 Q When you were in the anteroom to the First
14 Lady's office that evening, did you leave the doors
15 to the hallway open?

16 A Yeah.

17 Q So you would have seen --

18 A Probably.

19 Q So you would have seen activity in the
20 halls?

21 A Yes.

22 MR. BOTH: Correction. She wouldn't have

1 seen activity in the hall other than activity in the
2 hall passing by the door, which would have been going
3 to Maggie Williams --

4 THE WITNESS: Directly in front. You can't
5 see anything. You can only see directly in front. I
6 think it's -- I think there may be a men's bathroom
7 right opposite, but unless someone is passing, you
8 don't have any kind of vantage, any kind of
9 perspective.

10 BY MR. JOHNSON:

11 Q And I was really just trying to follow up
12 on your last answer when you said that you would have
13 seen someone walk by.

14 A Right.

15 MR. BOTH: To Maggie's office.

16 MR. JOHNSON: Or to any other place, I
17 presume.

18 THE WITNESS: Correct.

19 BY MR. JOHNSON:

20 Q And my question was, you remember that the
21 doors were open so that if that had happened, you
22 would have been physically able to see it?

1 A If somebody came into counsel's suite,
2 unless he or she were coming from Maggie's or anybody
3 else's office who was over there at the time, I
4 wouldn't have been able to see them.

5 MR. BOTH: What would you have been able to
6 see, when you went past your office into the
7 counsel's suite, you would have just been able to see
8 them pass in the hallway?

9 THE WITNESS: Passed in the hall.

10 MR. BOTH: Do you understand what I'm
11 saying?

12 MR. JOHNSON: I think it's never been
13 ambiguous.

14 MR. BOTH: You were talking about --

15 BY MR. JOHNSON:

16 Q Let me clear it up. When I said to you you
17 would have seen activity in the hallway, did you
18 understand that I was referring to activity outside
19 of Ms. Clinton's door in the hallway when you said
20 yes, you would have been able to see it?

21 A Did I understand what you said? Okay. I
22 would have seen people standing in front of

1 Mrs. Clinton's door.

2 Q Right.

3 A In this big a space (indicating).

4 MR. BOTH: A door frame.

5 THE WITNESS: Right. Nothing here and
6 nothing there.

7 BY MR. JOHNSON:

8 Q Obviously, things that would have been out
9 of your line of vision in the hallway you couldn't
10 have seen?

11 A Yes.

12 Q When you left the White House -- I'm sorry,
13 when you left the anteroom to Mrs. Clinton's office
14 that evening, you went back down the elevator, I
15 think you said your best recollection?

16 A I think so.

17 Q So therefore you would have walked by the
18 White House counsel's office; is that correct?

19 A Right.

20 Q Do you recall whether or not it was open or
21 closed at that time?

22 A I don't.

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1 Q And I take it therefore you don't recall
2 whether or not you would have seen anyone?

3 A I don't.

4 Q And you've testified earlier that even as
5 you sit here today, you don't know whether or not
6 Ms. Williams entered the White House counsel's suite
7 or Mr. Foster's office that evening; is that correct?

8 A That's correct.

9 Q And you've never had any conversations with
10 her on that topic; is that right?

11 A That's correct.

12 Q As you sit here today, do you know whether
13 or not Ms. Williams had any conversations with the
14 First Lady on the evening of July 20?

15 A I don't.

16 Q And you've never had any conversations with
17 Ms. Williams on that topic?

18 A I don't think so.

19 Q Ever had any conversations with the First
20 Lady on that topic?

21 A I don't think so.

22 Q I just want to be as clear as I can be,

1 Ms. Lieberman, on a couple of the points that I've
2 touched on already.

3 A Okay.

4 Q A White House security officer has
5 testified in previous deposition that you introduced
6 him to Maggie Williams on the evening of July 20?

7 MR. KRAVITZ: You mean that she introduced
8 Maggie Williams to him. I think you got it
9 backwards.

10 BY MR. JOHNSON:

11 Q You had words to the effect of this is
12 Maggie Williams to someone.

13 MR. KRAVITZ: I'm going to interrupt for
14 one second. I think if you're going to refer to
15 previous testimony we should do it as accurately as
16 possible. Obviously it's not intentional, but the
17 transcript which I actually have here of that
18 officer's testimony is that Ms. Lieberman said to the
19 officer "this is Maggie Williams, secretary to the
20 First Lady."

21 MR. JOHNSON: Okay, thank you.

22 THE WITNESS: Did I say that?

1 BY MR. JOHNSON:

2 Q Do you remember saying that to him?

3 A That Maggie was Hillary's secretary?

4 Q See, I'm not trying to match the precision
5 of the words. I'm just trying to recall whether or
6 not you had a conversation to that effect with a
7 Secret Service agent that evening.

8 A Okay. I definitely did not say that this
9 is Hillary's secretary. That's number one, but if
10 the guard -- is it possible that I identified Maggie
11 to the guard for purposes of opening up the door?
12 That's possible.

13 Q And when you say "the door," which door are
14 you referring to?

15 A To Mrs. Clinton's office.

16 Q Is it also possible that you talked to the
17 guard for the purposes of closing the door?

18 A It's possible.

19 Q And let me just --

20 A It's also possible it's not the same guard
21 either.

22 Q I was going to ask something a little

1 different. Is it possible that you talked to any
2 guard about closing the door to the White House
3 counsel's suite that evening?

4 A I don't remember. Is it possible? It's
5 possible. I don't remember.

6 Q It may have happened but you don't have any
7 recollection of that today?

8 A I don't think I do.

9 (Witness conferred with counsel.)

10 MR. JOHNSON: Off the record.

11 (Discussion off the record.)

12 BY MR. JOHNSON:

13 Q Let me apologize for the delay.

14 Ms. Lieberman, what I'm going to do is read to you
15 from a deposition previously taken in this case, the
16 recollections of one witness on that evening?

17 MR. BOTH: Will you identify who the person
18 is, please?

19 BY MR. JOHNSON:

20 Q He's a Secret Service officer who was in
21 the White House that evening.

22 A Okay.

1 MR. BOTH: Do you want to give us his
2 name?

3 MR. JOHNSON: I actually don't want to,
4 just to be supercautious about confidentiality.

5 MR. BOTH: Have you had testimony from more
6 than one Secret Service agent?

7 MR. JOHNSON: Yes.

8 MR. BOTH: Well, then it seems to me only
9 appropriate that we be afforded the opportunity of
10 knowing who the individual is that you are asking
11 questions about, statements that he apparently
12 ascribes to Evelyn Lieberman.

13 MR. JOHNSON: Let me just say for the
14 moment that I disagree and I'm not going to mention
15 his name for the moment.

16 BY MR. JOHNSON:

17 Q I'm going to read the statement to see
18 whether or not it refreshes your recollection about
19 anything that may have occurred on that evening.

20 MR. KRAVITZ: I have to say that I
21 actually -- I don't think that's fair. I think if
22 we're going to read from someone's deposition

1 transcript we ought to identify who the witness was.

2 MR. BOTH: Basic. I mean basic. If you're
3 going to use somebody else's statement to either
4 impeach somebody or to help refresh somebody's
5 recollection, you at least identify who the speaker
6 is. You don't ask abstract questions if you're using
7 it for that purpose.

8 MR. JOHNSON: You can instruct her not to
9 answer if that's your desire.

10 MR. BOTH: I don't want to do that.

11 MR. JOHNSON: I didn't think you would.
12 Let me just read the question.

13 MR. BOTH: I know you didn't think I
14 would. Well, I object to this procedure most
15 vehemently. I'm not going to direct her not to
16 answer the question, but I think what you're doing is
17 a travesty.

18 MR. JOHNSON: Thank you.

19 MR. KRAVITZ: Let me make a suggestion.
20 Maybe there's some way we can -- maybe everyone can
21 be satisfied with how we're doing this. I mean, I
22 think what Mr. Johnson is saying is that he's

1 concerned about confidentiality and he's concerned
2 that the identity of this witness will become known
3 outside the context of this deposition.

4 I mean, I think if possible, if we could
5 have a promise from the witness and from Mr. Both
6 they would not tell anyone outside this deposition
7 whose transcript we're reading, I think we could
8 probably satisfy everyone's interests, because I do
9 think it's more fair to the witness to know who
10 you're -- whose testimony you're referring to, but I
11 think the Senate's interest in not having any of its
12 deposition testimony disclosed any further than it
13 needs to be is also an important interest.

14 MR. JOHNSON: I don't know -- it's
15 theoretically fine. You're exactly right about my
16 concern.

17 Mr. Both, do you intend to debrief the
18 White House counsel's office on this deposition?

19 MR. BOTH: I haven't crossed that bridge
20 yet.

21 MR. JOHNSON: When you cross that bridge,
22 let me know and maybe we can deal with this question

1 because --

2 MR. BOTH: I think Mr. Kravitz has an
3 appropriate resolution of my concern that you're
4 exhibiting here, and I guess the answer is I think
5 it's so fundamental and so important that before you
6 ask --

7 MR. JOHNSON: Important to what?

8 MR. BOTH: Important to the process,
9 important to fairness, important to --

10 MR. JOHNSON: What is unfair? Tell us for
11 the record.

12 Let me ask you this question.

13 BY MR. JOHNSON:

14 Q Do you know the name of any of the Secret
15 Service agents?

16 MR. BOTH: Maybe she does and maybe she
17 doesn't.

18 BY MR. JOHNSON:

19 Q Let's ask her. Do you know the name of any
20 of the Secret Service agents that work in the west
21 wing of the White House?

22 A Since I've been working there, I know some

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1 of them by their first names.

2 Q What first names do you recall?

3 A Who knows?

4 Q You don't recall today, I take it, what
5 Secret Service agents you spoke with, if any, on the
6 evening of the 20th?

7 A I don't recall is correct, yes.

8 MR. JOHNSON: I don't know how the name
9 would help her. What would the name do? She knows
10 some first names, she doesn't know any last names.

11 MR. BOTH: The notion --

12 MR. JOHNSON: I hadn't finished yet. She
13 knows some first names. She doesn't know any last
14 names and she doesn't recall speaking with anyone.
15 So I don't know how it's unfair to her to withhold a
16 name that she's just testified under oath she won't
17 be able to identify if we give it to her. And let me
18 just, with some emphasis because people have taken to
19 speaking emphatically hearsay, that I am very
20 concerned about the confidentiality of this and I'm
21 particularly concerned, since you're somewhat
22 ambiguous about whether or not you're going to

1 discuss this deposition with others. And given
2 that --

3 MR. BOTH: And let me finish what I was
4 about to say. When I complimented Mr. Kravitz on his
5 suggestion, what I was about to say before you so
6 abruptly interrupted me was that I haven't crossed
7 the bridge as to whether I'm going to be debriefing
8 anybody at the White House. I don't think I have any
9 obligation to do that.

10 But what I can say to you, because I do
11 believe that the process is important and it is
12 fundamental, whether Ms. Lieberman knows the name of
13 the Secret Service person or not, the fact that you
14 would pose questions to a witness in this process
15 without identifying who the other witness is from
16 whom you seek to either elicit an impeached statement
17 or have somebody recall a statement without telling
18 the person who is making the statement is
19 preposterous.

20 So what I am about to say is, despite the
21 fact that I haven't made a determination as to
22 whether or not I'm going to debrief the White House

1 counsel, I will assure you on the record here that
2 should I, I won't disclose the name of the person
3 that you're telling Ms. Lieberman, provided we have
4 an understanding that you're not going to go through
5 this process of inquiring of people by using other
6 people's depositions without disclosing who the
7 people -- who the deposition is that you are using.

8 If you can't accept it on that terms, then
9 do it your way. And I'm not going to instruct the
10 witness, but I have voiced my vigorous opposition
11 here.

12 MR. JOHNSON: Okay, thank you.

13 MR. BOTH: And the Minority's suggestion of
14 getting around this is an appropriate way to get
15 around it.

16 MR. JOHNSON: I can't stop Mr. Kravitz from
17 telling you the name of the guy if he wants to. I'm
18 not going to do it.

19 MR. KRAVITZ: One other point because I
20 think this is important. You know, Kip, in a
21 deposition when we use our documents, many of which
22 are held at a higher level of confidentiality than

1 the deposition transcript, which is simply
2 confidential as opposed to highly confidential, we
3 often have used our confidential documents in the
4 context of these depositions and have shown copies of
5 them and identified them for the record and as to
6 what they are to the witnesses and on the record.
7 And I don't see why this is any different.

8 I mean, I just think it's inappropriate in
9 a deposition to be reading from a document without
10 letting the witness know what the document is and in
11 this case it's the deposition of X. And I just think
12 that it's just improper and it's unfair.

13 MR. JOHNSON: Well, everybody is very happy
14 to say it's unfair, no one can articulate why it's
15 unfair. It's just lawyer's knee-jerk reaction that
16 it's unfair. We're reading for the purpose of
17 refreshing recollection. I am quite familiar with
18 the Federal Rules of Evidence and the rule on
19 refreshing recollection, it can be refreshed by
20 anything.

21 MR. BOTH: Provided you disclose what the
22 thing is.

1 MR. JOHNSON: Absolutely not. I can
2 refresh her recollection by saying anything to her,
3 sir. Anything. I don't have to read from a
4 deposition. I don't have to identify a source.

5 MR. BOTH: But if you --

6 MR. JOHNSON: I can say the sky is blue,
7 Ms. Lieberman. Does that refresh your recollection?
8 I don't have to identify God's name in making the sky
9 blue.

10 MR. BOTH: But you have to identify the
11 fact that it's the sky.

12 MR. JOHNSON: If Mr. Kravitz wants to
13 reveal it, I can't stop him. If he thinks it's
14 unfair, he can reveal it now. I think that the
15 benefit of revealing it is insignificant, given that
16 she doesn't know who these people are and that the
17 risk to this individual and his job and the publicity
18 outweighs it. That's my judgment. If Mr. Kravitz
19 has a different one, he's free to make a different
20 judgment.

21 I'm not completely comfortable in doing
22 it. I don't see the benefit in doing it. If later

1 in the deposition she recalls any part of this,
2 great, maybe we can explore at that time whether it
3 would be beneficial to reveal the identity.

4 But what we have right now is testimony
5 that she doesn't recall any of this. I'm predicting
6 that when I attempt to refresh her recollection, she
7 won't recall it then either and we will have revealed
8 a name for no benefit. That's why I don't want to do
9 it. If we want to revisit it later in time if this
10 is fruitful, I'm happy to do that. If Mr. Kravitz
11 wants to reveal it because he has a different
12 judgment about it, I respect his judgment immensely
13 but that's not my judgment here, and if you have
14 objected, I understand your objection, I understand
15 you're not going to instruct her not to answer it.

16 My suggestion is that we go forward because
17 we have just different judgments here about it. Can
18 we do that?

19 MR. BOTH: I can't stop you. You've got
20 the ball.

21 MR. JOHNSON: Good, great.

22 MR. BOTH: I can object still, which I do.

1 BY MR. JOHNSON:

2 Q I'm reading from a deposition of a Secret
3 Service agent, Ms. Lieberman. You've been the
4 unfortunate beneficiary of this discussion so you
5 know where this is coming from and that your counsel
6 objects to this method. I'll read you a couple of
7 questions and answers just to give you the context.
8 The question is: "You went back, back up to the
9 counsel's office and you said they were," and I
10 interrupted you.

11 "Answer: Well, I just remember" --

12 MR. BOTH: Who was asking the question?
13 You are asking the questions of a witness so you're
14 the questioner. We don't know who the witness is.

15 You know that the witness is a Secret
16 Service agent.

17 MR. BOTH: Right.

18 MR. KRAVITZ: Actually, just for the
19 record, the witness is a uniform division officer.

20 BY MR. JOHNSON:

21 Q "Answer: Well, I just remember being in the
22 hallway and I was talking to -- I never went back to

1 the suite, and I noticed Ms. Lieberman standing
 2 there.
 3 "Question: Standing where?
 4 "Answer: Standing right outside the doors
 5 to the chief counsel's office, and I think she was
 6 talking -- and she was talking back into the office.
 7 She went back and walk into the office. I didn't see
 8 her again. And then she came back out and right
 9 after I saw Mr. Nussbaum come out and he walked away
 10 and he walked down the steps, as far as I can
 11 remember. And then I saw Maggie Williams come out
 12 and both women were standing there. And
 13 Ms. Lieberman mentioned to me that she wanted the
 14 room locked. I said okay. And then she said this is
 15 Maggie Williams. She was walking by me at that
 16 moment with -- I mean she was walking by me. She was
 17 carrying something.
 18 "Question: Who was carrying something?
 19 "Answer: Ms. Williams."
 20 Does that refresh your recollection about
 21 any of the events of that evening?
 22 A No.

1 Q Would it be helpful in refreshing your
 2 recollection in any way to know the name of the
 3 Secret Service officer?
 4 A (Indicating).
 5 Q Indicating no?
 6 A Indicating no.
 7 Q Now, as we have gone through this exercise,
 8 let me just ask you whether your testimony today is
 9 you don't recall that, or that didn't happen?
 10 A I don't remember that at all. Can you
 11 paraphrase -- can you tell me what he said?
 12 Q Well, I can tell you but given our success
 13 in these things, we're likely to get a lot of
 14 objections. I think what he said, my impression of
 15 what he said, is that he ran into you and
 16 Ms. Williams outside the White House counsel's office
 17 that evening, that you --
 18 A In the hallway?
 19 Q In the hallway, yes, ma'am. Now, his
 20 testimony was that you went in and out of the White
 21 House counsel's office, but you've already testified
 22 that you don't recall that.

1 A No.

2 Q And I don't want to belabor this point
3 forever.

4 A That's fine.

5 Q I just want to do all that I can to see
6 whether any of this rings a bell with you at all.

7 A It does not.

8 Q And the last question I had posed before
9 this minor diversion was whether or not it's possible
10 that this occurred, and you just don't recall today
11 or you just don't think it happened?

12 A I don't believe it did. He says that I
13 asked him to lock the office?

14 MR. BOTH: Among other things that's what
15 he said.

16 MR. JOHNSON: Yes.

17 MR. BOTH: To lock the counsel's office.

18 BY MR. JOHNSON:

19 Q Is that possible?

20 A I don't think so.

21 Q Let me turn now to the 21st of July.

22 Before we do that, one final question. I think you

1 testified that when you and Ms. Williams left the
2 White House counsel's -- left the west wing of the
3 White House that evening, that neither you nor she
4 were carrying anything, to the best of your
5 recollection?

6 A That's correct.

7 MR. BOTH: You didn't ask a question
8 whether Evelyn Lieberman was carrying anything. You
9 asked the question as to Maggie Williams. If you
10 want to ask Evelyn if she was carrying anything, that
11 would be a different question.

12 BY MR. JOHNSON:

13 Q My memory may be mistaken. I think I asked
14 you whether or not you were carrying a purse and you
15 said you didn't recall; is that correct?

16 A That's correct.

17 Q Were you carrying anything else?

18 A No, I don't believe so.

19 Q Was Ms. Williams carrying anything to the
20 best of your recollection?

21 A I don't believe she was.

22 Q Now, you've also testified that your memory

1 is a little unclear about whether or not you dropped
2 Ms. Williams off that evening or whether you may have
3 taken her to your house; is that correct?

4 A That's correct.

5 Q Understanding there's some lack of clarity
6 about that, what's the next thing that you recall
7 regarding Mr. Foster's death?

8 A Nothing.

9 Q You went to work on the 21st, I take it?

10 A I guess I did, yeah.

11 Q Did you have any involvement on the 21st in
12 anything at all surrounding Mr. Foster's death or the
13 investigation into Mr. Foster's death?

14 A I guess what I should tell you is that
15 because I was forced -- not forced, but because I had
16 to remember last year what happened the evening, and
17 because it was unusual that evening that I would come
18 home and then go into work, that was something that I
19 was able to remember. If you are asking me about the
20 next day or the day after, I don't remember
21 anything. I mean, I'll try to help you but I really
22 don't remember anything.

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1 Q No, that's fine. I'll just ask you to be
2 patient with me because I just have to test.

3 A That's fine. No, I understand.

4 Q Did there ever come a time after
5 Mr. Foster's death when you entered Mr. Foster's
6 office at all for any reason?

7 A I don't think so.

8 Q Let me show you a document that bears
9 document production number Z000926. And I'll try and
10 describe it for the record, understanding that you
11 may know what it is, I'm just identifying what
12 appears to me. It's a phone mail message to Evelyn
13 dated 7/21/93 at 1:40 p.m., apparently from someone
14 by the name of Ann Stock.

15 Let me ask you whether you have ever seen
16 that before.

17 A If it were a message to me, I probably saw
18 it.

19 Q Do you know anyone by the name of Ann
20 Stock?

21 A Yes.

22 Q Who is Ms. Stock?

1 A She's the social secretary at the White
2 House.

3 Q What is the role of the social secretary?

4 A She does all the events, anything that goes
5 on at the White House, you know, events that the
6 President takes part in she sets up.

7 Q Do you recall having any conversations with
8 Ms. Stock on the 21st of July?

9 A No. Could I have? Yeah.

10 Q Is that someone in the course of your job
11 as an assistant to Ms. Williams that you spoke with
12 frequently?

13 A Yes.

14 Q I'll show you another document also dated
15 apparently July 21, 1993, also to Evelyn, a phone
16 message apparently from Ann Stock. Time of this is
17 about 5:08 in the evening.

18 MR. KRAVITZ: What's the Bates number on
19 that?

20 MR. BOTH: This one is Z000934. And you're
21 asking about the lower one, which is the Ann Stock
22 message as opposed to the higher one?

1 MR. JOHNSON: Yes, thank you. That's
2 correct.

3 BY MR. JOHNSON:

4 Q The same question. Does that refresh your
5 recollection at all about any conversations you may
6 have had with her on that day?

7 A You would see 30 of those in a week.

8 Q Let me show you, then, another document
9 which bears a document production number Z000941,
10 apparently dated July 22, 1993, again to Evelyn.
11 It's apparently from someone named Julie of Marsha
12 Scott.

13 A I know who Marsha Scott is.

14 Q Who is Marsha Scott?

15 A What was her job then? I think her job
16 then may have been presidential correspondence, head
17 of presidential correspondence I believe.

18 Q Do you have any recollection of any
19 telephone conversation that you may have had with
20 Julie or Marsha Scott on that day?

21 A I don't even know who Julie is. I think
22 it's probably Marsha's assistant at the time. I

1 don't know who that is. About anything relating to
2 Vince?

3 Q Yes. You make an excellent point. Let me
4 just confine it to that day. Do you remember any
5 conversations with her on that day, on any topic?

6 A On the -- again, that's a very common
7 message.

8 Q Have you ever had any conversations with
9 Marsha Scott or her assistant, Julie, about
10 Mr. Foster, to the best of your recollection?

11 A No. I mean --

12 Q Let me show you another document which
13 bears document production number Z000897, apparently
14 to Evelyn from Ron Noble.

15 MR. BOTH: Just so I'm clear when I read
16 this record or that somebody reads this record, when
17 you say "production," this production was made by the
18 White House?

19 MR. JOHNSON: Yes, it was.

20 THE WITNESS: What's "production,"
21 photocopying something?

22 MR. JOHNSON: They sent the document to

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1 us.

2 MR. BOTH: And this is undated, this phone
3 message is an undated phone message. Are you putting
4 it in a date frame?

5 MR. JOHNSON: I don't know the date of it.

6 MR. BOTH: Did you ask her in terms of the
7 date?

8 MR. JOHNSON: I didn't mean to.

9 MR. KRAVITZ: Although I think --

10 MR. BOTH: The one above it is dated 7/22.
11 If these were -- I don't know if this came as a book
12 or how this came.

13 MR. KRAVITZ: I think we should state for
14 the record that this page was one of many produced by
15 the White House in response to a request for phone
16 messages for certain people in certain offices
17 between July 20 and July 22, 1993. So presumably
18 someone at the White House thought it was within that
19 time period.

20 BY MR. JOHNSON:

21 Q I think the question is, do you recall any
22 conversations with Mr. Noble during that time period?

- 1 A I mean, did I have them? Yeah, I'm sure I
2 must have had them. Do I recall them? No.
- 3 Q I take it, therefore, you don't recall any
4 of the topics that you may have spoken with Mr. Noble
5 about?
- 6 A That's correct.
- 7 Q Mr. Noble at this time was an assistant
8 secretary of the treasury for enforcement; is that
9 correct?
- 10 A I don't know. I think he had two jobs; is
11 that right?
- 12 Q Well, he is today the undersecretary of the
13 treasury.
- 14 A Okay. This is when he was assistant
15 secretary?
- 16 Q I believe so.
- 17 A Okay.
- 18 Q The reason I say that is to try and refresh
19 your recollection about whether or not you ever spoke
20 with Mr. Noble about Mr. Foster or anything relating
21 to Mr. Foster's death.
- 22 A The answer is no.

- 1 MR. BOTH: So that I'm clear, the request
2 was for records of Evelyn's telephone messages or --
3 I mean, I guess I was unclear.
- 4 MR. KRAVITZ: No. I don't remember the
5 exact --
- 6 MR. JOHNSON: I don't think it identified
7 her by name. I think it was generally for phone
8 messages.
- 9 THE WITNESS: You're looking for the book?
- 10 MR. JOHNSON: Probably.
- 11 MR. KRAVITZ: My recollection is that it
12 was a request for telephone messages taken in the
13 First Lady's office, I'm confident.
- 14 MR. BOTH: And these are the ones you might
15 have pulled out that have Evelyn's --
- 16 MR. JOHNSON: These are not all that we
17 have. They're just --
- 18 MR. BOTH: I can imagine that.
- 19 MR. JOHNSON: Nor are they all the ones
20 that you have Evelyn as a recipient of the message?
- 21 MR. JOHNSON: That was my objective.
- 22 MR. BOTH: If I called Evelyn during that

1 week and she had a message from me, you wouldn't have
2 thought that that was necessary to inquire, so there
3 must be lots of messages, people who are not
4 otherwise connected to these instances perhaps?

5 MR. JOHNSON: You know, actually I don't
6 know. It may be true, but I don't know.

7 MR. BOTH: Okay.

8 MR. JOHNSON: You may know.

9 MR. KRAVITZ: No.

10 BY MR. JOHNSON:

11 Q On the 22nd of July, which was a Thursday,
12 Ms. Lieberman, a review of the contents of
13 Mr. Foster's office was conducted. I say that simply
14 as a starting point for the question. What, if any,
15 role did you play in that review?

16 A None.

17 Q And sometime thereafter, we are told that
18 certain contents of Mr. Foster's office may have been
19 boxed up or distributed elsewhere within the White
20 House. Did you play any role with respect to -- from
21 the -- really from the 20th forward in time with
22 respect to any of the contents of Mr. Foster's

1 office?

2 A No.

3 Q Did you ever talk with anyone about what
4 role they may have played with respect to the
5 contents of Mr. Foster's office?

6 A No.

7 Q And just one more click to be more
8 specific.

9 A That's fine.

10 Q Did you ever talk with Ms. Williams about
11 what role, if any, she may have played with respect
12 to the documents in Mr. Foster's office?

13 A No.

14 Q And that's true even as we sit here today;
15 you just don't have any information about that at
16 all?

17 A That's true.

18 Q Now, there came a time which we were led to
19 believe is about the 26th of July, 1993 when a
20 handwritten note of Mr. Foster's was discovered,
21 again that's just a starting point for a question.
22 What, if any, involvement did you have in the events

1 relating to that note?
2 A None.
3 Q Do you think you learned about it?
4 A Yes.
5 Q How do you think you learned about it?
6 A I think there was a piece in the paper.
7 Q Other than that, you don't think you ever
8 discussed it with any other White House employees?
9 A That's correct.
10 Q You've never yourself seen the note?
11 A No, I have not.
12 Q Ms. Lieberman, exclude from your answer,
13 please, any contact you may have had with
14 representatives of the independent counsel's office.
15 Have you ever been interviewed by any law enforcement
16 officials in connection with Mr. Foster's death,
17 including -- excluding, rather, any contact with the
18 independent counsel's office?
19 MR. BOTH: Excluding?
20 MR. JOHNSON: Excluding for purposes of
21 this question.
22 THE WITNESS: You mean --

1 BY MR. JOHNSON:
2 Q Has the FBI come to interview you or
3 anything like that?
4 A No, no.
5 MR. KRAVITZ: I don't know what the answer
6 to my confusion is but I just wanted to make sure. I
7 know some people when they go to the independent
8 counsel's office, they talk to the FBI there. If
9 that happened I just want to make sure --
10 THE WITNESS: But he said excluding that.
11 There was someone from the FBI there.
12 MR. BOTH: But that's why --
13 THE WITNESS: That's why you're saying
14 excluding.
15 BY MR. JOHNSON:
16 Q I meant to exclude anyone working in
17 concert with the independent counsel --
18 MR. BOTH: A separate investigation, park
19 service or FBI or somebody other than the special
20 counsel is the way we understood the question and the
21 answer was given, the correct answer.
22 BY MR. JOHNSON:

1 Q As your counsel has rephrased it better
2 than I did, other than the independent counsel you
3 haven't been interviewed or spoken to anyone?

4 A Correct.

5 Q As we sit here today, Ms. Lieberman, have
6 you ever spoken with the First Lady about
7 Mr. Foster's death, the note found by Mr. Foster or
8 the documents in Mr. Foster's office, whether anyone
9 entered Mr. Foster's office or any other topic
10 relating at all to Mr. Foster and the investigation
11 into his death?

12 A No to all of them.

13 Q It just has never come up?

14 A No.

15 Q Even after, for example, her press briefing
16 where she discussed certain events?

17 A Never.

18 Q You never discussed it with her?

19 A No.

20 Q I won't repeat that tedious question, but
21 let me ask the same question with respect to
22 Mr. Nussbaum.

1 A No.

2 Q What about Ms. Williams?

3 A No.

4 Q Since the day that Mr. Foster died, you
5 have never discussed with Ms. Williams any of these
6 events?

7 A The --

8 Q The investigation or the documents or the
9 removal of documents or anything on that topic at
10 all?

11 A That's correct.

12 Q And let me -- the purpose of my next
13 question -- counsel, I'll preview it for you -- is
14 only for purposes of fixing a date in time. When did
15 you first retain counsel in connection with the
16 various investigations into Mr. Foster's death?

17 A When I was -- when I was called by the
18 special prosecutor.

19 Q Was that sometime in 1995?

20 A '4.

21 MR. BOTH: June of 1994.

22 BY MR. JOHNSON:

1 Q June of 1994. Just --

2 MR. BOTH: May/June 1994.

3 BY MR. JOHNSON:

4 Q The -- let me bracket time, then, by the
5 date of Mr. Foster's death and the date that you
6 first retained counsel, in that intervening roughly
7 one year, 11 months. Am I correct that you have
8 never discussed any of these topics with anyone who
9 worked in the White House during that period of time?

10 A Other than the event and the horror of it
11 and the sadness of it, no.

12 Q And by "the event," you mean Mr. Foster's
13 death and not some other thing?

14 A Yes, yes.

15 Q And there was a fair amount of press
16 inquiry into the White House's handling of the
17 investigation into Mr. Foster's death. Were you
18 aware of that inquiry?

19 A I was aware of it.

20 Q And even being aware of that inquiry, you
21 never discussed with anyone whether or not what was
22 reported in the press was true or untrue?

1 A I don't think so. Did I look at something
2 in the paper and say this is ridiculous or this is
3 outrageous? Probably. I'm a press secretary. I'm
4 an old press secretary. I say that every morning
5 when I look in the paper.

6 Q But apart from your personal impressions
7 about it, you didn't discuss --

8 A No.

9 Q -- the underlying facts with anyone?

10 A That's correct.

11 MR. BOTH: She might have voiced her
12 opinion about how it wasn't her view that it was
13 correct without asking about it. Is that clear? I
14 mean --

15 MR. JOHNSON: No, that's a good question.

16 THE WITNESS: What's the question?

17 BY MR. JOHNSON:

18 Q Did the opinion that you have just
19 hypothetically suggested that you may have expressed,
20 that this is ridiculous or something like that, did
21 you ever express that opinion to anyone?

22 MR. BOTH: To everyone.

1 THE WITNESS: I'm sure. I've yelled it.
2 Yes, that's what I do. I complain. I express my
3 opinions.

4 BY MR. JOHNSON:

5 Q Do you think you expressed it to
6 Ms. Williams?

7 A I don't know. I probably expressed it to
8 anybody within earshot. Just depends if she was
9 around when I was reading the paper. It meant
10 nothing. Ravings.

11 Q Other than your expressed opinions, do you
12 remember any response to those? Did Ms. Williams or
13 anyone else say yeah, that's ridiculous or anything
14 like that?

15 A Who knows? This is like water cooler
16 conversation. Who knows?

17 Q No conversations of any significance about
18 this topic?

19 A No.

20 Q Now, coming forward in time from the time
21 you retained counsel through and including today,
22 excluding any conversations you may have had with

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1 counsel, have you ever discussed any of those
2 topics -- and by -- Carmen, let me strike the whole
3 thing. Let me start over again.

4 The counsel you retained in June of 1994 is
5 Mr. Both, the attorney representing you here today;
6 is that correct?

7 A Yes.

8 Q Let me exclude from this question any
9 conversations you may have had with Mr. Both or
10 representatives of Mr. Both's office. Have you had
11 any conversations with anyone else on the topics that
12 we have described, Mr. Foster's death, the
13 investigation into the death, the handling or removal
14 of documents, anything?

15 A My husband.

16 Q Other than your husband?

17 A No.

18 Q Did you ever come to learn through press
19 reports or otherwise that documents that had been in
20 Mr. Foster's office had been placed in the White
21 House residence?

22 A Yes.

1 Q Did you ever discuss that with anyone?
2 A No.
3 Q Never with Ms. Williams?
4 A No.
5 Q Never with the First Lady?
6 A No.
7 Q So as you sit here today, you don't know
8 any more about it than what may have been reported in
9 the press?
10 A That's correct.
11 (Recess.)
12 BY MR. JOHNSON:
13 Q Just a couple of quick follow-ups,
14 Ms. Lieberman. Thank you for your patience.
15 The day that Mr. Foster died, the First
16 Lady was out of town; is that correct?
17 A Yeah.
18 Q She was in Arkansas?
19 A Yes.
20 Q Do you have any recollection today about
21 whether or not any events on her schedule were
22 canceled after Mr. Foster's death?

1 A No, I don't remember.
2 Q Did you travel to Arkansas for Mr. Foster's
3 funeral?
4 A No.
5 Q Did Ms. Williams travel to Arkansas for
6 Mr. Foster's funeral?
7 A Yes.
8 Q Do you know what day Ms. Williams left to
9 go to the funeral?
10 A No, but I think some members of the -- if I
11 can recall correctly, I think that some members of
12 the senior staff may have traveled all at the same
13 time.
14 Q Do you think they traveled with the
15 President?
16 A They may have.
17 Q So the President left, I've been informed,
18 on Friday the 23rd of July. Was that the day of the
19 funeral?
20 A I believe it was -- was that the day of the
21 funeral?
22 Q I believe it was.

1 A Then maybe she went down with them.

2 Q Did she also come back with the President
3 to the best of your knowledge?

4 A I don't remember.

5 Q Let me ask you a pretty sweeping question
6 for the benefit of counsel. I don't intend this
7 question to be a memory test or tricky in any way. I
8 just want to be sure before I stop there isn't
9 something in your mind that relates to Mr. Foster's
10 death that I should have asked you about or didn't.

11 As we sit here today, can you think of
12 anything that we should have talked about that we
13 haven't talked about?

14 A No.

15 MR. JOHNSON: If at any time you do, I hope
16 you will feel free to tell us we missed something.
17 Thank you for your patience. Mr. Kravitz will have
18 some questions and at the end of that, I would like
19 to come back and say something about the
20 confidentiality.

21 MR. KRAVITZ: Why don't we take about five
22 minutes. I think that will ultimately make this go

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1 more quickly.

2 MR. BOTH: That's terrific. Thanks.
3 (Recess.)

4 EXAMINATION

5 BY MR. KRAVITZ:

6 Q Ms. Lieberman, again my name is Neal
7 Kravitz, and I'm special counsel to the Democratic
8 members of the Senate committee. I'm going to ask
9 some follow-up questions in some of the areas
10 Mr. Johnson asked you about. I apologize in advance
11 for jumping around from one area to another, but I
12 think that will save time in the long run and I'll
13 try and focus your attention on specific areas to the
14 extent that I can.

15 A Okay.

16 Q I want to direct your attention first to
17 the night of July 20, 1993 when you and Ms. Williams
18 first arrived at the First Lady's suite of offices on
19 the second floor of the west wing, okay?

20 A Yes.

21 Q I believe you testified that at some point
22 a Secret Service guard came up to that area to let

1 you and Ms. Williams into the First Lady's suite; is
2 that correct?

3 A Yes.

4 Q Do you have any recollection of what that
5 Secret Service guard looked like?

6 A No.

7 Q You don't remember if it was a man or a
8 woman, for example?

9 A It was probably a man.

10 Q Are you saying that simply because most of
11 the Secret Service guards are men?

12 A Yes, yes.

13 Q But you have no recollection today as to
14 what that person looked like or whether it was a man
15 or woman?

16 A No.

17 Q As you and Ms. Williams were on your way to
18 the second floor of the west wing on the night of
19 July 20, 1993, did you go by stairs or elevator?

20 A Probably the elevator.

21 Q And does that mean that you would have
22 walked past the White House counsel's office suite on

1 your way from the elevator to the First Lady's suite?

2 A Yes, either way.

3 Q In other words, regardless of whether you
4 took the elevator or the stairs, you walked past the
5 White House counsel's office suite?

6 A Yes.

7 Q Was the door open or closed or do you have
8 any recollection of that?

9 A I don't remember.

10 Q You don't remember seeing anyone inside the
11 White House counsel's office suite at that time?

12 A I may have. I don't remember.

13 Q Do you have any recollection of hearing
14 anyone speaking inside the White House counsel's
15 office suite as you and Ms. Williams walked past it
16 on your way to the First Lady's suite on July 20?

17 A No.

18 Q Were there any cleaning people on the
19 second floor of the west wing at any time that night
20 while you were there?

21 A There may have been. I don't remember.

22 Q You didn't see any cleaning people?

1 A I don't remember.

2 Q Was the front door to the First Lady's
3 suite open the entire time that you were inside the
4 First Lady's suite on the night of July 20, 1993?

5 A Yes.

6 Q Was there ever a time -- strike that.

7 Was there ever a point during the time that
8 you were in the First Lady's suite that night that
9 you were in a position not to be able to see the
10 hallway outside the First Lady's suite?

11 A I don't -- you mean did I get up?

12 Q Well, did you ever go anywhere -- let me
13 ask it this way.

14 Did you ever go anywhere within the First
15 Lady's suite from which you could not see into the
16 hallway?

17 A I was asked earlier if I went into
18 Mrs. Clinton's office, and I said I don't remember.
19 If I were in Mrs. Clinton's office -- well, actually
20 you could probably see, so I think the answer is I
21 don't think so.

22 Q Is there a restroom within the First Lady's

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1 suite of offices?

2 A No. It's small.

3 Q Do you recall if you went to the restroom
4 at any time that night?

5 A I don't. I may have. I don't remember.

6 Q But to the best of your recollection, the
7 entire time that you were -- let me start over.

8 To the best of your recollection, from the
9 time you entered the First Lady's suite on the night
10 of July 20, 1993 to the time that you and
11 Ms. Williams left the First Lady's suite, sometime
12 between an hour and two hours later, you were in a
13 position to see into the hallway outside the First
14 Lady's suite the entire time?

15 A I believe so.

16 Q Now, I know we've -- you've testified
17 previously about limits on how much -- how big a part
18 of the hallway outside the First Lady's suite you
19 were able to see from inside the First Lady's suite,
20 but let me ask you this. If someone were walking
21 from the White House counsel's office suite to Maggie
22 Williams's office, that person would have to walk

1 past the First Lady's office?

2 A That's correct.

3 Q And so you would have been in a position to
4 see someone walking from the White House counsel's
5 office suite to Maggie Williams's office during the
6 time that you were in the First Lady's suite on July
7 20, 1993?

8 A That's correct.

9 Q Did you see anyone walk in that direction,
10 past the First Lady's suite of offices at any time
11 while you were in that suite of offices on July 20,
12 1993?

13 A I don't think I did. I don't know.

14 Q Did you ever see Maggie Williams walk past
15 the First Lady's suite of offices in the direction
16 coming from the White House counsel's office suite,
17 going toward her own office that night?

18 A I wouldn't have known wherever anybody was
19 coming from.

20 Q I understand that.

21 A I don't think I saw Maggie pass, no.

22 Q Just so the record is completely clear,

1 while you were in the First Lady's suite of offices
2 on the night of July 20, 1993, did you ever see
3 Maggie Williams walk from the direction of the White
4 House counsel's office suite past the First Lady's
5 suite and then toward the direction of Maggie
6 Williams's own personal office?

7 A I don't believe so.

8 Q Did you ever go into Maggie Williams's west
9 wing office on the night of July 20, 1993?

10 A I don't think so.

11 Q Did you ever go into Ms. Williams's west
12 wing office the next day, July 21, 1993?

13 A I don't know.

14 Q You don't know?

15 A No.

16 Q What about the day after that, July 22?

17 A I don't know. I may have. I don't know.

18 Q I know you've testified that you don't know
19 whether you were in Ms. Williams's office on either
20 July 21 or July 22, 1993, but let me ask you this.
21 Do you have any recollection of at around that time
22 period of seeing a stack of file folders in

1 Ms. Williams's west wing office?

2 A No, nothing unusual, no.

3 Q What do you mean by "nothing unusual"?

4 A First of all, I don't even know if I was
5 there. It wouldn't have been unlikely. I could have
6 been there. But -- no.

7 Q You have no recollection of --

8 A No.

9 Q -- seeing a stack of file folders in
10 Ms. Williams's west wing office at around the time
11 period we're talking about, July 20 through 22, 1993?

12 A No.

13 Q Do you have any recollection of seeing a
14 box anywhere in Ms. Williams's west wing office
15 during that time period?

16 A No.

17 Q I want to direct your attention back to the
18 night of July 20, 1993. Now, you've testified that
19 you think that at some point that night you called
20 and had a Secret Service guard come up and let you
21 into the First Lady's suite of offices; correct?

22 A That's correct.

1 Q At any time after the Secret Service guard
2 let you and Ms. Williams into the First Lady's suite
3 of offices that night, did you go down on the
4 elevator from the second floor of the west wing to
5 the ground floor of the west wing along with the
6 Secret Service guard?

7 MR. JOHNSON: "The" or "a"?

8 BY MR. KRAVITZ:

9 Q Along with the Secret Service guard who had
10 let you into the First Lady's suite.

11 A You mean was I leaving? It's possible that
12 I was leaving and somebody else was in the elevator?
13 It's possible. Was I leaving without Maggie? No.

14 Q Let me ask it this way. At any time did
15 you go down in the elevator from the second floor to
16 the ground floor with a Secret Service guard, just
17 the two of you?

18 A I don't think so.

19 Q You have no recollection of that?

20 A No.

21 Q When you say you don't think so, is it your
22 belief that that did not happen?

1 A That's my belief.

2 Q Did you ever speak with a Secret Service
3 guard down on the ground floor of the west wing in
4 person as opposed to on the telephone about having
5 the White House counsel's office suite locked up on
6 the night of July 20, 1993?

7 A No.

8 Q Did you ever speak in person with a Secret
9 Service guard down on the ground floor of the west
10 wing about having the First Lady's suite of offices
11 locked up on the night of July 20?

12 A I don't -- if I did call somebody to lock
13 the First Lady's office, I would not have left the
14 office unattended, so I would not have gone
15 downstairs to do that.

16 Q Was there ever a time on the night of July
17 20, 1993 at which you were standing in the hallway on
18 the second floor of the west wing right outside the
19 White House counsel's office suite talking to someone
20 who was inside the White House counsel's office
21 suite?

22 A I don't believe so.

1 Q When you say you don't believe so, is it
2 your testimony that you do not think that that
3 happened?

4 A That's correct.

5 (Pause.)

6 Would you excuse me for one second?

7 (Recess.)

8 THE WITNESS: I'm sorry. I apologize.

9 BY MR. KRAVITZ:

10 Q You testified when Mr. Johnson was asking
11 you questions that it was possible that you may have
12 asked a Secret Service guard on the night of July 20,
13 1993 to lock up the White House counsel's office
14 suite but that you don't remember. What did you mean
15 when you said it was possible that you might have
16 done that?

17 A If somebody was locking Mrs. Clinton's door
18 and there was a door that was open, would I have said
19 is this locked? It's possible.

20 Q Is it your best recollection that you did
21 not ask a Secret Service guard to lock the White
22 House counsel's office suite on the night of July 20,

1 1993?

2 A That's my recollection, that I did not.
3 (Witness conferred with counsel.)

4 BY MR. KRAVITZ:

5 Q And it's your best recollection that you
6 never even spoke to a Secret Service guard on the
7 night of July 20, 1993 about locking up the White
8 House counsel's office suite; is that correct?

9 A Yes.

10 Q You also testified that it's possible that
11 at some point on the night of July 20, 1993 you told
12 a Secret Service guard what Maggie Williams's name
13 was and also possible that you would have said who
14 Maggie Williams works for. Do you have any
15 recollection of that or are you simply saying that
16 it's possible?

17 A It's possible for purposes of
18 identification, it's possible if we were trying to
19 get into the suite.

20 Q And am I correct that under no
21 circumstances would you have introduced Maggie
22 Williams as Mrs. Clinton's secretary on the night of

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1 July 20, 1993?

2 A That's correct.

3 Q Let me just ask one follow-up question
4 about the possibility that you might have told a
5 guard who Ms. Williams was. And I believe you
6 testified that in order to get into the First Lady's
7 suite it might have seemed appropriate for you to
8 tell the guard this is Maggie Williams, she works for
9 the First Lady or something like that; is that
10 correct?

11 A What's the question? Could I have said
12 that?

13 Q Yes.

14 A Could I have identified Maggie to a guard?

15 Q Right.

16 A Yes, yes.

17 Q But on the other hand, would there have
18 been any reason for you to identify Maggie Williams
19 to a guard as you and Ms. Williams were leaving the
20 First Lady's suite?

21 A No, no, no.

22 (Witness conferred with counsel.)

1 BY MR. KRAVITZ:

2 Q Was there any time on the night of July 20,
3 1993 when you and a Secret Service guard were
4 standing in the hallway together outside the White
5 House counsel's office suite?

6 A I don't believe so.

7 Q Was there any time on the night of July 20,
8 1993 as a Secret Service guard was standing outside
9 the White House counsel's office suite in the hallway
10 that you went into the White House counsel's office
11 suite for a few seconds and then came back out into
12 the hallway?

13 A I don't believe so.

14 Q When you say you don't believe so, it's
15 your best recollection that that did not happen?

16 A That's correct.

17 Q At any time on the night of July 20, 1993,
18 were you and a Secret Service guard standing in the
19 hallway outside the White House counsel's office
20 suite when Mr. Nussbaum came out of the White House
21 counsel's office suite and walked down the stairs?

22 A I don't even remember seeing him.

1 Q So your recollection is that that did not
2 happen?

3 A That's correct.

4 Q And when you say you don't remember seeing
5 him, you mean you don't remember seeing Mr. Nussbaum
6 at any time on the night of July 20, 1993?

7 A That's correct.

8 Q On the night of July 20, 1993, did you ever
9 see Maggie Williams carry anything from the White
10 House counsel's office suite to her own west wing
11 office?

12 A No.

13 Q Did you ever see Maggie Williams on the
14 night of July 20, 1993 go from the White House
15 counsel's office suite to her own west wing office on
16 the second floor?

17 A No.

18 MR. KRAVITZ: Off the record.
19 (Discussion off the record.)

20 BY MR. JOHNSON:

21 Q What were you wearing on the night of July
22 20, 1993 when you were in the west wing of the White

1 House?

2 A I don't remember.

3 Q Were you wearing a summer weight, light
4 colored, cotton sack-type dress?

5 A No, I don't believe I was.

6 Q Do you own such an item?

7 A No, I do not.

8 Q What was Maggie --

9 MR. BOTH: Off the record.

10 MR. KRAVITZ: Sure.

11 (Discussion off the record.)

12 BY MR. KRAVITZ:

13 Q Well, let me ask you this. You obviously
14 don't remember exactly what it was that you were
15 wearing on the night of July 20, 1993 when you were
16 back at the White House. Do you tend to wear dresses
17 when you're home in the evening after work?

18 A No, I do not.

19 Q Did you change that night before going back
20 to the White House?

21 A I'm sure I did not.

22 Q Would there have been any reason for you to

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1 change into a dress to go to the White House?

2 MR. JOHNSON: Wait a minute. Maybe I
3 misunderstood. She asked if you change -- maybe I
4 misunderstood your question. When you said did you
5 change, did you go back to the White House, did you
6 mean did she change out of what?

7 MR. BOTH: His first question is predicate
8 question, was it customary for you to stay around the
9 house in a dress when you were home and she said no
10 to that. And then he asked did you change to go to
11 the White House. I think you missed the first
12 question.

13 MR. JOHNSON: No, I missed a question that
14 wasn't asked, which was whether she changed after she
15 got home from work.

16 BY MR. KRAVITZ:

17 Q That's a good point. Do you know what you
18 were wearing at the time that Maggie Williams called
19 you at home on the night of July 20 and informed you
20 of Mr. Foster's death?

21 A No.

22 Q Do you assume based on your regular

1 practice that you were wearing something other than a
2 dress?

3 A Yes.

4 Q Did you change clothes between the time
5 that Maggie Williams called you at home and told you
6 of Mr. Foster's death and the time that you left to
7 go back to the White House?

8 A I can't imagine that I did.

9 Q And so is it your assumption based on your
10 regular practice that when you were in the west wing
11 of the White House on the night of July 20, 1993, you
12 were wearing something other than a dress?

13 A Yes.

14 Q Would that have been pants?

15 A Probably shorts.

16 Q What about Maggie Williams, do you have any
17 recollection of what she was wearing that night?

18 A I do not.

19 Q You testified earlier that you believe that
20 as you and Ms. Williams were leaving the second floor
21 of the west wing, you left by way of the elevator
22 rather than the stairs?

1 A Yes, that's probably right.

2 Q While you and Ms. Williams were waiting to
3 get onto the elevator that night to leave the west
4 wing, did a Secret Service guard go into the White
5 House counsel's office to lock up that office?

6 A I don't remember.

7 Q You have no recollection of that?

8 A No.

9 MR. KRAVITZ: That's all I have. Thanks a
10 lot.

11 MR. JOHNSON: Ms. Lieberman, I have one
12 quick follow-up, just continuing our obsession with
13 your clothing habits.

14 EXAMINATION

15 BY MR. JOHNSON:

16 Q Is it possible when you returned to the
17 White House on the evening of July 20 you were
18 wearing the same clothes that you had worn to work
19 that day?

20 A Not possible.

21 Q Why is that?

22 A Because I don't usually wear stockings at

1 home and the minute I come home, I change my
2 clothing.

3 Q So even though you don't recall what you
4 were wearing, you're certain that you had changed
5 clothes that evening?

6 A Yes.

7 MR. JOHNSON: Do you have anything
8 further?

9 MR. KRAVITZ: No. Except to say it's
10 obvious she worked in a public interest law office.
11 First thing you do is take off your work clothes.

12 MR. JOHNSON: Thank you for your
13 considerable patience this morning. The
14 confidentiality of this deposition, as I'm sure
15 you've observed, is very important to us and we'd be
16 grateful if you would not discuss this with anyone.

17 MR. BOTH: What access does Evelyn have to
18 this transcript? Can she read it at some point?

19 MR. JOHNSON: On the record or off?

20 MR. BOTH: We can do it off.

21 MR. JOHNSON: It's routine. We'll do it
22 off.

1 MR. BOTH: Okay.

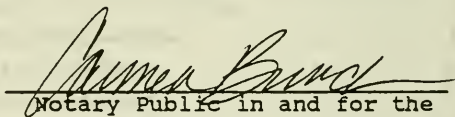
2 (Whereupon, at 12:59 p.m., the deposition
3 was concluded.)
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6 EVELYN LIEBERMAN
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

DEPONENT

EVELYN ~~LEE~~ BERMAN - July 6, 1995

ERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
27	15	Debra	Deborah	Spelling
30	4	yeah	yes	not correct
33	8	yeah	yes	usage not familiar
41	4	yeah	yes	"
42	16	yeah	yes	"
44	1	yeah	yes	"
45	13	yeah	yes	"
55	15	yeah	yes	"
65	11	yeah	yes	"
76	16	yeah	yes	"
87	9	Yeah	yes	"
95	1	yeah	yes	"
17	17	yeah	yes	"

Evelyn S. Lurie

**DEPOSITION OF
THOMAS F. "MACK" McLARTY III
IN RE: S. RES. 120**

THURSDAY, JULY 6, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of THOMAS F. "MACK" McLARTY III, called
for examination pursuant to notice of deposition, at 9:36 a.m. in
Room 640-A of the Hart Senate Office Building, before JULIE
BAKER, a Notary Public within and for the District of Columbia,
when were present:

MICHAEL CHERTOFF, Esq.
Majority Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
RICHARD BEN-VENISTE, Esq.
Minority Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

WILLIAM W. TAYLOR III, Esq.
LESLIE M. BERGER, Esq.
Zuckerman, Spaeder, Goldstein, Taylor & Kolker
1201 Connecticut Avenue, NW
Washington, DC 20036
On behalf of the Deponent.

APPEARANCES

THOMAS B. GRIFFITH, Esq.
 Deputy Senate Legal Counsel
 Office of Legal Counsel
 U.S. Senate
 Room 642, Hart Building
 Washington, DC

ALSO PRESENT: SANDRA AISTARS-ANNUS

CONTENTS

WITNESS	EXAMINATION
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EXHIBITS

DEPOSITION NUMBER	IDENTIFIED
Deposition Exhibit M-1	41, 2598

1 PROCEEDINGS

2 Whereupon,

3 THOMAS F. MC LARTY

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. CHERTOFF:

8 Q Mr. McLarty, before we proceed, I'm going
9 to give you some preliminary information concerning
10 the nature of the proceeding. And I know we went
11 through a comparable proceeding last summer and so a
12 lot of this may seem similar, but I think I want to
13 put it on the record anyway.14 This deposition is being conducted pursuant
15 to Senate Resolution 120 which establishes a Special
16 Committee to investigate matters involving Whitewater
17 Development Corporation and some other related
18 matters. Section 1.B.1 of that resolution authorizes
19 investigation and public hearings into "whether
20 improper conduct occurred regarding the way in which
21 White House officials handled documents in the office
22 of White House Deputy Counsel Vincent Foster

1 following his death." And that's going to be the
2 focus of today's deposition. Let me ask you how you
3 received notice about this deposition.

4 A I believe my lawyers were notified.

5 Q And in connection with this deposition,
6 were you asked to collect any information or provide
7 any written information to be transmitted?

8 A I believe there was some directive of that
9 type, which we made every effort to fully comply
0 with.

1 Q Do you have any personal notes or personal
2 documents relating to the subject of Vincent Foster's
3 office, the way in which the documents in that office
4 were handled after his death that have not been
5 furnished to the White House and, through the White
6 House, to us?

7 A To the best of my knowledge, I do not.

8 Q I'm going to ask you a series of questions,
9 which you'll be obliged to answer under oath. If you
0 don't understand a question, please let me know, and
1 I'll rephrase it. Likewise, please don't speculate
2 or guess unless I specifically ask you to speculate

1 about something. If you need a break, let me know;
2 we'll go off the record and take a break.

3 I see you're represented by counsel and --
4 actually, two counsel. If I could get for the record
5 which counsel will speak for you.

6 MR. TAYLOR: William Taylor.

7 BY MR. CHERTOFF:

8 Q If you need to speak to Mr. Taylor, let me
9 know; we'll go off the record. We can make available
0 a room you can talk in if you wish. There may be
1 some objections to form of the question here by your
2 attorney or by one of the other attorneys. Please
3 wait until that's put on the record. You can answer
4 the question unless you're instructed by one of the
5 lawyers not to answer. And the basis for that
6 instruction would presumably be something like a
7 privilege.

8 If such an objection is raised, let us
9 discuss it among ourselves, and then you'll be
0 directed to answer or not to answer by one of the
1 lawyers, depending on the outcome of that. If we are
2 at an impasse, if we can't resolve the matter, we'll

1 go to the Committee chairman and get a ruling in that
2 fashion.

3 There's going to be a stenographic record
4 of this that's going to be prepared. We're going to
5 hold it committee confidential, meaning accessible
6 only to members of the Committee and staff, until the
7 hearings. Once the hearings begin, some or all of
8 the deposition may become public. Four days before
9 the hearings are scheduled -- and I think I can now
10 tell you, based on the conversation I had last night,
11 that it looks like July 18th is going to be the
12 beginning of the hearings. That's going to be a
13 Tuesday, I think.

14 Four days before that, which I guess would
15 make it a Friday, we will make available in the
16 reading room a deposition, a copy, so it can be
17 reviewed for mistakes and corrections. I should
18 advise you, though, that if you make corrections
19 other than clerical or ministerial corrections, we
20 could redepose you on those corrections as a matter
21 of substance.

22 If you are actually called as a witness,

1 you will get a copy of the transcript yourself four
2 days before the day you're due to appear on the
3 condition that you and your attorneys agree to keep
4 it confidential among yourselves and not disseminate
5 the content either orally or in writing to anybody
6 else. Is there anything about that that is unclear?

7 A No. I think you stated it very clearly.

8

9

10

11

12

13 Q You are currently in what position at the
14 White House?

15 A I am counselor to the President.

16 Q And what exactly are the duties of the
17 counselor to the President?

18 A To offer advice and counsel on a broad
19 range of issues, to represent the President from time
20 to time at various functions, activities. And in my
21 current role, the three major responsibilities are
22 the Summit of Americas follow-up interface with Latin

1 America and the Caribbean, the White House
2 coordinating person for the Olympics to be held in
3 1996, and outreach to various constituency groups,
4 primarily with business-related issues.

5 Q Directing your attention to 1993, at that
6 point in time you were chief of staff to the
7 President; is that correct?

8 A That is correct.

9 Q And can you summarize at that time what
10 your duties were?

11 A As chief of staff, you are essentially the
12 operating officer in the White House to bring
13 information, both written and oral, to the
14 President's attention on a timely basis, usually for
15 information's sake but usually for some type of
16 decision purpose.

17 Q In that capacity, did you report directly
18 to the President?

19 A I did.

20 Q Who were the people immediately below you
21 in the chain or the hierarchy in the White House?

22 A There was a chief of staff's office, which

10

1 consisted of two deputies and a staff director. Then
2 there were a number of assistants to the President on
3 various matters, and there were -- and are -- three
4 assistants to the President for policy matters.

5 Q I'm going to ask you -- and again, these
6 questions are going to be related to the period of
7 the summer of 1993. I'm going to ask you about
8 certain individuals and whether these people reported
9 to you, and also whether they had reporting
10 relationships directly to the President.

11 Bill Burton?

12 A Bill Burton reported to me as my staff
13 director.

14 Q Did he also report directly to the
15 President?

16 A No, he did not.

17 Q Margaret Williams?

18 A Margaret Williams is -- was and is the
19 First Lady's chief of staff and reported to the First
20 Lady but also had reporting functions to the chief of
21 staff's office.

22 Q And that would be to you?

1 A Yes.

2 Q Patsy Thomasson?

3 A Patsy Thomasson was, I believe, deputy
4 assistant to the President for management
5 administration and reported to Mr. David Watkins
6 directly.

7 Q Did she report directly to the President?

8 A No, she did not.

9 Q Did she report directly to you?

10 A No, she did not.

11 Q Who did Mr. Watkins report to?

12 A Mr. Watkins reported to me.

13 Q Did he report directly to the President?

14 A No, not in his capacity.

15 Q Bernard Nussbaum?

16 A Bernard Nussbaum was White House counsel,
17 reported to me, but also had reporting
18 responsibilities to the President. If you'll note my
19 earlier testimony, I said assistant to the President
20 for policy matters, and in their case, they also had
21 what I viewed as some direct reporting relationship
22 to the President.

1 Q Now, during the period before July 20,
2 1993, when Vincent Foster was deputy counsel, did he
3 report directly to you?

4 A No, he did not.

5 Q Did he report directly to the President?

6 A No, he did not.

7 Q To your knowledge, were there certain
8 personal matters involving the President and First
9 Lady as to which he had some responsibility?

10 A I have since come to learn there were
11 certain matters. I did not know it at the time.

12 Q You did not know that before July 20th?

13 A I believe that's correct.

14 Q Since you've been notified about this
15 deposition, have you spoken to anybody other than
16 your attorneys or your immediate family about the
17 anticipated subject matter of your testimony?

18 A No, I have not.

19 Q Without asking you what the questions and
20 answers have been in the past, am I correct that you
21 have testified about the issue of the Vincent Foster
22 documents or been interviewed about that on previous

1 occasions by law enforcement officials?

2 A Yes, I have.

3 Q Since those interviews or testimony -- and
4 again putting aside your counsel or your immediate
5 family -- have you discussed with anybody the
6 substance of what you told the law enforcement
7 officials on those occasions?

8 A No, I have not.

9 Q Let me direct your attention to July 20,
10 1993 in the evening. Was there a point in time in
11 the evening that you were present during the taping
12 of the television show involving Larry King?

13 A I --

14 MR. TAYLOR: Assuming it was a taping?

15 MR. CHERTOFF: Or filming.

16 MR. TAYLOR: Production.

17 MR. CHERTOFF: Production.

18 THE WITNESS: I was aware -- I was present
19 during the interview of the President by Mr. King.

20 BY MR. CHERTOFF:

21 Q And where did that take place?

22 A It took place in the White House residence,

14

1 I believe in what is called the library.

2 Q Was it a live show?

3 A I believe it was.

4 Q Do you recall when the show began?

5 A I think it began at 9:00 eastern time.

6 Q Was there a period of preparation before
7 the beginning of the show?

8 A There was a brief period, as I remember.

9 Q And were you present for that?

10 A I believe I was.

11 Q Did there come a time when you were in the
12 residence that you learned that a body of someone who
13 was believed to be employed at the White House had
14 been found in Fort Marcy Park?

15 A Yes, at some point during this period.

16 Q How did you learn that?

17 A Mr. Burton informed me, as I was literally
18 leaving the White House, that there had been a body
19 discovered, that they thought -- the authorities
20 thought to be Vince Foster, although they were not
21 certain at that point, and it had been an apparent
22 suicide.

1 Q You say you were leaving the White House.
2 About what point were you leaving the White House
3 relative to the filming of this interview with Larry
4 King?

5 A The interview, as I remember it,
6 Mr. Chertoff, had just begun. They had several
7 minutes of interview; it seemed to be going quite
8 well. So it was underway and my responsibilities, as
9 I saw them, were completed, so I was going home for
10 the evening.

11 Q Now, after Mr. Burton told you this
12 information, what did you do?

13 A Well, I was shocked by it and upset by it.
14 My thoughts at that point turned to the interview.
15 Was the President going to be asked about this during
16 this interview? And should we notify the President
17 or, frankly, stop the interview? My thoughts also
18 ran to the fact that the body had not been fully
19 identified or concretely identified and the hope that
20 this was not Mr. Foster. Those were my immediate
21 thoughts when I was told this news.

22 Q Did you direct Mr. Burton to do anything?

1 A I don't recall giving him any specific
2 direction. I think I responded to his information
3 with "keep me posted as things progress" or "let me
4 know if there's a concrete identification made."
5 Something of that nature.

6 Q And did you return to the residence?

7 A I did not. I was told in the residence. I
8 was actually in the hall of the residence, so I was
9 in the residence when I was told, so I stayed in the
10 residence.

11 Q You decided to stay?

12 A Yes.

13 Q What did you do next?

14 A Mr. Chertoff, I don't remember a specific
15 sequence of events. At some point, I counseled with
16 George Stephanopoulos, who had been involved in the
17 communications both during the campaign and the White
18 House, who was already there for the interview, and
19 Mark Gearan, who was director of communications, to
20 get their thoughts as to what we should do regarding
21 the interview. And I believe Dee Dee Myers joined us
22 at some point during that conversation, although that

1 may have been later. I honestly do not recall. They
2 were, of course, shocked at the news also and felt we
3 should not stop the interview after we discussed it
4 for a few minutes.

5 Q Now, did you remain in the residence during
6 the remaining portion of the interview?

7 A Yes, I did.

8 Q Did there come a point in time when you
9 spoke to Mr. Burton again?

10 A Mr. Chertoff, I don't recall that I did,
11 but I probably talked to Mr. Burton by telephone and
12 could have talked to him in person during that hour
13 or so period.

14 Q During that hour or so period, did you get
15 any further confirmation about the identity of the
16 body that had been discovered?

17 A I can't recall specifically. It seems to
18 me I did, and that probably would have come from
19 Mr. Burton. I just don't specifically recall it.

20 Q At what point did you notify the President?

21 A It was after the interview.

22 Q And where did he go?

1 A The President concluded the interview. He
2 and Mr. King had agreed to go an additional 30
3 minutes from what had been scheduled for an hour
4 interview, which suggested that the interview had
5 gone quite well. There was some discussion with
6 George Stephanopoulos and Mark Gearan about not
7 having the interview go an additional 30 minutes and
8 how we were going to politely tell the President that
9 we were going to conclude the interview. I stepped
10 in and did that. He and Mr. King both were
11 understandably a bit surprised and disappointed that
12 the interview was not going to go an additional 30
13 minutes.

14 And at some point, the President, I think,
15 had the impression from me there was a reason that I
16 was firmly saying this. I think my phrase was let's
17 quit while we're ahead. We've done the hour
18 interview; it's been a fine interview. So we walked
19 out of the library, and I related to the President --
20 as I remember it, he asked me, Mack, what's wrong?
21 What's up? And I said Mr. President, it's not a
22 national emergency or crisis, but it is a very

1 serious matter, and let's go upstairs. I want to
2 visit with you about it. And he looked inquisitively
3 and said what is it? I said let's get upstairs and
4 we can discuss this.

5 We then went to the residence area in the
6 White House. We sat down and I related the
7 information I had at the time that Mr. Foster had
8 taken his life. I can't recall, Mr. Chertoff, with
9 certainty whether I had been told it was Mr. Foster
10 for sure or not. I believe by that time I had, but I
11 can't recall it specifically. The President
12 expressed surprise, sadness and immediately said I
13 want to call Hillary. I related to him I had talked
14 to Hillary earlier in the evening. With that, he did
15 call his wife. I was not in the room when he talked
16 to her. I could hear the call being made. That's
17 how -- that's what happened next.

18 Q At what point had you spoken to the First
19 Lady?

20 A It was sometime during that hour, during
21 the interview. Again, I was -- I felt, as did
22 others, that there may be some wire story about this,

20

1 and as I remember it, the First Lady was in Arkansas
2 where her father was very ill, and we did not want
3 her to see it in a news report of some type and not
4 be aware of it. Further, she and Mr. Foster were
5 good friends, and I felt she should be notified,
6 which I did.

7 Q The First Lady, you say, was in Arkansas
8 with her father. Had the plan at that point been
9 that the First Lady was going to be spending the
10 balance of that week, at least, in Arkansas with her
11 father?

12 A I believe that's as I remember it. She had
13 spent -- or at least I know as events unfolded she
14 spent considerable time in Arkansas with her father.
15 Ultimately he did pass away. I don't remember
16 exactly the time period, but I think you're right;
17 she was going to spend some time there.

18 Q During that week, was it your understanding
19 that it was essentially going to be private time?
20 She was not going to be undertaking official duties?

21 A That's correct. That's correct. There may
22 have been two or three things in Arkansas that she

1 might have made a public appearance, but no official
2 duties. She was spending time with her father.

3 Q In the conversation you had with
4 Mrs. Clinton, did she ask you to do anything?

5 A No, I don't recall that she did. At the
6 time I called her, as I remember it -- and I may have
7 called her twice. I do not remember. The first
8 call, Mr. Chertoff, what I remember is relating the
9 information I had. And I did note that the body had
10 not been officially identified, and I left some
11 measure of hope that it was not Mr. Foster, and I
12 probably said something like I will try to keep you
13 apprised as events unfold during the evening.

14 Q Whether there was one call or two calls, is
15 there any point in the evening of the 20th in which
16 you spoke to the First Lady and she asked you to do
17 anything?

18 A I don't recall that she did ask me to do
19 anything, other than perhaps just keep her apprised
20 of events, which I think I already volunteered to do.

21 Q After the President made his phone call to
22 the First Lady, did he go to visit Mrs. Foster?

22

1 A He did.

2 Q Did he go directly from the White House at
3 that point?

4 A We did. That was a decision at the time
5 that seemed to be not an uncomplicated decision to
6 make given the events and the nature of the evening.
7 The President did not want a normal motorcade to the
8 Foster residence to create all kinds of activity
9 around the home, so I wanted to make sure that in
10 trying to be responsive to that understanding and
11 desire, we did not take unnecessary chance from a
12 security or safety standpoint.

13 I talked to the Secret Service about a much
14 more efficient way to -- discrete way to travel to
15 the home. They reflected on that, and in about 15
16 minutes we left, and I believe we had one car and a
17 van. I'm not sure we had one car in front. I
18 believe we did. But the President and I went in a
19 Suburban van, as I remember it, with two or three
20 Secret Service people, which was not the normal way
21 we would have traveled, but understandable given the
22 circumstances.

1 Q Is it fair to say that the time that you
2 left for this trip was within 15 to 20 minutes after
3 the Larry King show had ended?

4 A It may have been a bit more than that,
5 Mr. Chertoff. It was relatively promptly after that,
6 but there was a period of telling the President, his
7 making the phone call, as I related, and we had a bit
8 of a period there in discussing with the
9 Secret Service the best way to get to the Foster
10 home, and that took a few minutes, but I would say
11 within a half hour. But I could not be sure.

12 Q During that intervening period, up to
13 approximately a half an hour, did you have
14 discussions with anybody else on the senior White
15 House staff, putting aside Secret Service and,
16 obviously, the President himself?

17 A You mean after I notified the President,
18 Mr. Chertoff?

19 Q After you notified the President.

20 A No, I do not believe that I did.

21 Q During the period from the time that you
22 first learned about the discovery at Fort Marcy Park

1 up until the time you left to go to the Foster
2 residence, did you speak to any senior members of the
3 White House staff besides Mr. Gearan and Ms. Myers
4 and Mr. Burton?

5 A And Mr. Stephanopoulos?

6 Q And Mr. Stephanopoulos.

7 A I had called Mr. Hubbell, as I remember it,
8 for two reasons. One, again, there was legitimate --
9 a legitimate reason to hope that this was not a firm
10 identity, and it was frankly my hope that
11 Mr. Hubbell, who had been an associate of Mr. Foster
12 and good friend, might know of his whereabouts. And
13 secondly, if it were Mr. Foster, it was my thought
14 that Mr. Hubbell should perhaps go to the Foster home
15 to comfort Mrs. Foster and the family. And I did
16 make contact with him, as I remember it, during that
17 hour, related the information. He did not know of
18 Mr. Foster's whereabouts and said he would go to the
19 Foster home.

20 Q Again, during this period from the time you
21 first learned about the discovery at Fort Marcy Park
22 up until the time you left for the Foster residence,

1 did you have any conversations with Mr. Watkins?

2 A I don't recall that I did.

3 Q Did you have any conversations with
4 Mr. Nussbaum?

5 A No, I don't recall that I did. I believe I
6 saw Mr. Nussbaum as the President and I were leaving
7 for the Foster home.

8 Q Did Mr. Nussbaum come with you?

9 A No, he did not.

10 Q Did you extend an invitation for him to
11 come with you?

12 A No, I did not.

13 Q Is there some reason you didn't?

14 A No. It was a personal visit by the
15 President to the Foster home. He wanted to express
16 his deepest sympathy and condolences and be with
17 Mrs. Foster and the family. I felt the same way, and
18 we were in the process of leaving, so I didn't extend
19 an invitation to anyone. It was the President and I
20 going to the home, and my focus was on the President,
21 getting him there safely and timely and being
22 supportive of what he wanted to do at that particular

1 point in time.

2 Q Again, during that same period, between the
3 time you were notified of the discovery at Fort Marcy
4 Park and the time you left for the Foster residence,
5 did you have any conversations with Patsy Thomasson?

6 A No, I did not.

7 Q How long were you at the residence?

8 A Mr. Chertoff, probably an hour. I can't
9 say with absolute certainty, but about an hour.

10 Q Did you see Mr. Watkins at the residence?

11 A Yes, I did.

12 Q Was there anybody else from the White House
13 senior staff at the residence?

14 A It was a relatively large number of people
15 there when the President and I arrived, perhaps a
16 bit -- a few more than I had anticipated. Senator
17 Pryor was there with his wife from Arkansas, and
18 several other people. I don't recall specifically
19 who was there. Mr. Foster's two sisters were there,
20 and I remember being relieved that one of his sisters
21 who lived in Arkansas was at the residence, which --
22 obviously you had basically the family there gathered

1 together with the exception of his mother.

2 Q Was Mr. Livingstone there?

3 A He may have been. I can't recall with
4 certainty whether he was there or not. There were a
5 number of people, and I honestly do not remember.

6 Q Do you remember if anybody from the White
7 House counsel's office was there?

8 A I don't recall anyone in the White House
9 counsel's office being there, Mr. Chertoff, but my
10 focus was frankly one, supporting the President; two,
11 to convey our deepest sympathies to Lisa Foster and
12 the family. And I believe I visited with each of the
13 family members for a short period of time. I
14 remember Senator Pryor; I talked to him and to
15 Barbara, and I recall speaking to Mr. Watkins and
16 spending some time with Sheila Foster, Vince's older
17 sister. And Sharon. That's who I remember during
18 the evening.

19 Q Did you talk to Mr. Watkins during that
20 visit?

21 A I've already noted that I spoke with
22 Mr. Watkins. I don't recall what we talked about.

1 It was a brief exchange, mostly about the loss of
2 Mr. Foster, as I remember.

3 Q Do you know whether Mr. Watkins was the
4 duty officer at the White House that night?

5 A I do not.

6 Q Did Mr. Watkins say anything to you
7 concerning sealing or securing Mr. Foster's office?

8 A I don't recall that he did.

9 Q Where did you go after you left the Foster
10 residence?

11 A Mr. Chertoff, at some point Mr. Gergen and
12 Vernon Jordan arrived at the Foster home, and about
13 this point in time, my thoughts had begun to shift
14 from the actual tragedy and was it Vince or not and
15 proper notifications and the Larry King show and the
16 other things we've discussed and getting the
17 President there to proper -- public notification of
18 this tragedy. And Mr. Gergen's emphasis was there
19 when he arrived, after he expressed proper
20 condolences and so forth. So that's the next
21 emphasis, so to speak, or subject matter, however you
22 would want to describe it, during the evening.

1 After about that time period, I returned to
2 the White House. I cannot specifically recall
3 whether I returned with the President or not. I
4 believe that I did, but I can't say that with
5 absolute certainty. I returned to the White House
6 and went to the kitchen area in the White House
7 residence, again, perhaps with the President, or I
8 knew that's where he was going, or he asked me to
9 stop by there. I don't recall, but I obviously
10 wanted to kind of have that as a clear-out period.

11 When I arrived in the kitchen area,
12 Mr. Kantor was there, Mr. Jordan was there,
13 Mr. Gergen was there, the President was there. There
14 may have been others. I believe George
15 Stephanopoulos was there for a period, in and out. I
16 can't recall anyone else being there at this time.

17 Q How long did you remain in that kitchen
18 area?

19 A Probably about 45 minutes.

20 Q During that period of time, was there any
21 discussion about what procedure was going to be
22 followed in connection with any official

30

1 investigation of the death?

2 A The conversation with those individuals did
3 not center on that kind of subject matter. It just
4 was more reflection of the tragedy and events and
5 that type of personal conversation, not procedural or
6 administrative. At some point, Mr. Gergen and I had
7 talked about the notification to the press and so
8 forth, and that seemed to have been done in a timely
9 and appropriate way.

10 At some point, I believe, Mr. Gearan called
11 Mr. Gergen in this kitchen area to report that the
12 press had been notified and that they seemed to be
13 satisfied with the information they had been given
14 and so forth and so on. Mr. Gergen, I believe,
15 basically asked Mr. Gearan was there anything else
16 and handed the phone to me, and I asked the same of
17 Mark Gearan, so that was the only matter of the type
18 that you would refer to.

19 Q After you left the kitchen, where did you
20 go?

21 A I believe I went straight home.

22 Q At any point in the evening, did you go

1 back -- let me withdraw the question.

2 From the time that you originally learned
3 of the discovery of the body at Fort Marcy Park until
4 the time you left the White House, were you in your
5 suite?

6 A When I said I went straight home, I don't
7 believe, Mr. Chertoff, that I went back to my
8 office. That's what I meant by that phrase. I may
9 have, but I believe I went straight to my car because
10 it obviously had been a very long night.

11 Q At any point in that evening, from the
12 point in time when you first heard about the
13 discovery of the body at Fort Marcy Park until you
14 left the White House, did you have any conversations
15 with anybody about sealing or locking Mr. Foster's
16 office?

17 A No, I don't recall that I did. Let me --
18 the only point I remember -- and I referred to it
19 earlier but didn't amplify on it. Mr. Gergen, I
20 believe, asked Mr. Gearan during the phone call that
21 I related earlier, had the office been sealed or
22 secured. I don't recall specifically, and it was my

32

1 impression that it had been. I don't recall whether
2 I asked Mr. Gearan that question again or not when I
3 talked to him.

4 Q Now, I want to make sure I understand when
5 this phone call occurred. Is this phone call when
6 you were in the kitchen?

7 A Yes, it was.

8 Q And Mr. Gergen was with you in the kitchen?

9 A He was.

10 Q And Mr. Gearan was somewhere else?

11 A Yes. He was in his office, I believe.

12 Q And that would be in the west wing?

13 A That's right.

14 Q From Mr. Gergen's side, you heard
15 Mr. Gergen ask was the office secured or sealed?

16 A That's how I recall it, Mr. Chertoff. I
17 can't say with absolute certainty what the precise
18 language was.

19 Q And your understanding from Mr. Gergen's
20 reaction on the telephone was that it had been?

21 A That was my impression.

22 Q Was that a matter as to which you took a

1 personal interest or felt a personal responsibility?

2 A I didn't give that type of matter a lot of
3 thought during the evening. My focus had been, as
4 I've already told you today, first on the President
5 and the interview, on proper notifications, frankly
6 confirming that it was Mr. Foster, then getting the
7 President to the Foster residence, expressing
8 condolences, and proper notification to the press.
9 That's where my thoughts were that evening and
10 activities and actions.

11 Q Did you suggest during that evening --
12 Tuesday evening, July 20th, did you suggest that
13 there was a need to make sure that Mr. Foster's
14 office wasn't disturbed?

15 A I don't recall that I did.

16 Q Let me see if I can refresh your memory.
17 I'm going to read you a transcript of a White House
18 press briefing by Dee Dee Myers that took place on
19 July 30, 1993.

20 MR. BEN-VENISTE: What's the number?

21 MR. CHERTOFF: I don't have a number on
22 this. This is frankly off of NEXIS, I guess. It's

1 at 1:47 p.m.

2 MR. TAYLOR: What date?

3 MR. BEN-VENISTE: Hold on for just a
4 second.

5 MR. CHERTOFF: I think there's a hard copy
6 somewhere, but mine is off NEXIS.

7 MR. TAYLOR: What day is the briefing,
8 Mr. Chertoff?

9 MR. CHERTOFF: This is July 30, 1993. It
10 begins at 1:47 p.m., the White House press briefing
11 room, conducted by Ms. Myers. I think it's on
12 page 6.

13 "Question: Dee Dee, is it true that
14 McLarty's direction that the Foster office be sealed
15 was not carried out for 12 hours?

16 "Ms. Myers: No. What happened in that
17 regard was that evening, Tuesday evening, as people
18 were here in the White House notifying family members
19 and others about what had happened, it was suggested
20 by Mack we need to make sure that Vince's office
21 isn't disturbed. The counsel's office is -- every
22 night is locked and alarmed, so I don't think --

1 there wasn't a need to lock it in any other way. So
2 people just made sure the door was closed and that
3 when the members of the counsel's office left that
4 the door was locked and alarmed as it always is. And
5 the next morning they asked the Secret Service to put
6 a guard on it just for an additional layer of
7 protection."

8 Does that refresh your memory that you made
9 that suggestion?

10 A I don't recall it, Mr. Chertoff.

11 Q Can you say that Ms. Myers's rendition is
12 incorrect?

13 A No, I cannot. I just don't recall the
14 press briefing. I may have said something like that,
15 but I can't say with certainty that I did. I don't
16 recall it.

17 Q As of Tuesday, July 20th, up until the
18 point at which you left the White House after the
19 period of time you spent in the kitchen, is it
20 correct that your understanding was that Mr. Foster's
21 death was presumed to be a suicide?

22 A Yes, it was.

1 Q At that point, had you been given any
2 conclusive information or conclusive opinion about
3 the cause of death?

4 A As I remember it, Mr. Chertoff, it had been
5 reported to me that he had taken his life with a
6 pistol and a gunshot wound.

7 Q That was your information, that it was a
8 suicide?

9 A Yes, definitely the information I had was
10 it was a suicide.

11 Q Was it your understanding there was going
12 to be further investigation after that point to
13 determine conclusively that it was a suicide?

14 A Would you repeat the question?

15 Q Was it your understanding as of Tuesday
16 evening, July 20th, that there was going to be some
17 further investigation before a conclusive
18 determination was made that it was a suicide?

19 A I don't recall being given that type of
20 information or that question being posed. I don't
21 recall thinking about that question that you just
22 asked me on Tuesday night.

1 Q Now, when did you come in the following
2 morning?

3 A I believe around 8:00 the next morning for
4 a staff meeting.

5 Q And was it the regular practice at the
6 White House to have an 8:00 a.m. senior staff
7 meeting?

8 A I believe at that point, it was.

9 Q Did you typically preside over that
10 meeting?

11 A Yes, I did.

12 Q Did you preside over the meeting on July
13 21st?

14 A Mr. Chertoff, I don't recall that meeting
15 with much preciseness, but I believe I did.

16 Q Was Mr. Nussbaum present?

17 A I don't know. He usually attended staff
18 meetings, so I presume he was, but I don't recall
19 specifically seeing him there.

20 Q At that senior staff meeting, was there
21 discussion about Mr. Foster's death?

22 A I'm sure there was. Again, Mr. Chertoff, I

1 just don't remember that particular staff meeting
2 very clearly.

3 Q Do you remember whether there was some
4 discussion about investigative steps that were going
5 to be taken over the next couple of days?

6 A I don't recall any discussion at that staff
7 meeting.

8 Q Do you know whether there was discussion
9 about whether Mr. Foster's office was going to be
10 secured?

11 A I don't recall that being discussed at the
12 staff meeting.

13 Q Is there anything you can recall about that
14 staff meeting that related to Mr. Foster's death or
15 to the investigation that was anticipated to occur
16 regarding that death?

17 A I remember -- well, in terms of
18 Mr. Foster's death, I'm sure it was communicated to
19 the staff meeting, but I don't remember again, the
20 meeting very clearly. At some point I think
21 Mr. Nussbaum related to me that he would assume
22 responsibility here, as I would expect him to. There

1 was an exchange, but I don't remember the specifics
2 of that discussion.

3 Q So it was your understanding as of the time
4 of the senior staff meeting that Mr. Nussbaum would
5 be the person within the White House who would assume
6 responsibility for handling it?

7 A That was my understanding, and I felt that
8 was appropriate.

9 Q Was Maggie Williams a person who typically
10 attended the senior staff meeting?

11 A Maggie did frequently but not always attend
12 the staff meetings.

13 Q Do you remember whether she was at the
14 particular staff meeting on that day?

15 A I do not remember.

16 Q Was it your understanding that she was
17 going to assume any responsibility in terms of
18 handling the investigation that would ensue after
19 Mr. Foster's death?

20 A I don't recall discussing that with
21 Mr. Nussbaum or Ms. Williams.

22 Q Did there come a point later that morning

40

1 that you attended a briefing from Park Police
2 officials?

3 A I don't recall that I did.

4 Q Did you learn that there was a briefing by
5 Park Police officials?

6 A I may have been aware of it, but I was
7 not -- I don't recall that I was made aware of that
8 meeting.

9 Q Was there someone within your office, the
10 chief of staff's office, to whom you delegated the
11 responsibility to be the contact with Mr. Nussbaum
12 regarding the investigation about Mr. Foster's death?

13 A Mr. Burton would have been that person. I
14 don't recall whether I specifically delegated that to
15 him.

16 Q For the balance of that morning, were you
17 involved in anything relating to Mr. Foster's death?

18 A I don't recall that, Mr. Chertoff. What I
19 remember about that morning was the deliberation and
20 decision about a White House staff meeting, a full
21 meeting of all of the White House to discuss the
22 Foster tragedy, and I believe that afternoon we did

1 have such a meeting, and that was a relatively major
2 undertaking, to pull that type of meeting together.
3 So that's where a lot of my focus was that morning,
4 as I remember it.

5 Q Did there come a point in the afternoon
6 where there was a press briefing regarding
7 Mr. Foster's death?

8 A I don't recall whether there was or not
9 that afternoon. I don't recall whether there was a
10 press briefing.

11 Q Do you recall whether you attended and
12 spoke at a press briefing that afternoon?

13 A I don't recall my speaking at a press
14 briefing. I spoke at the meeting with White House
15 staff that afternoon.

16 Q I'm going to show you -- I guess I'll mark
17 it as Exhibit M-1, if I can. It's the first three
18 pages of a U.S. News Wire NEXIS record of a press
19 briefing transcript dated July 21, briefing room,
20 3:30 p.m. EDT, and it purports to reflect a statement
21 by you followed by a statement by Mr. Gearan.

22 (Deposition Exhibit M-1 identified.)

1 BY MR. CHERTOFF:

2 Q Just take a look at it and see if that
3 refreshes your memory.

4 (Witness reviewed the document.)

5 Does that refresh your memory that you did,
6 in fact, participate in a press briefing that
7 afternoon?

8 A I do now recall it. And I read a
9 statement, and I believe this is the statement
10 concerning the tragic loss of Vince Foster and
11 expressing condolences to his family. And you'll
12 note Mr. Gearan took the questions, and that's why I
13 couldn't remember the press question and answer
14 period. But I do remember making a statement that
15 afternoon.

16 Q Were you present when Mr. Gearan took the
17 questions, or did you leave?

18 A I believe I left, Mr. Chertoff.

19 Q Do you remember if you had a previous
20 discussion with Mr. Gearan concerning what was
21 anticipated to come up at the conference?

22 A I honestly do not remember. I had not even

1 remembered the briefing until you refreshed my memory
2 with the transcript.

3 Q Were you aware as of the time of this
4 briefing that the Department of Justice would be
5 taking a role in conducting the investigation about
6 Mr. Foster's death?

7 A I don't recall focusing on that. I may
8 have been aware of it. I don't recall specific
9 knowledge about if the Department of Justice would be
10 taking a role or however you phrased your question.

11 Q As of this point in time when you had the
12 press briefing, had you had any discussion with
13 anybody concerning whether individuals had been in
14 Mr. Foster's office Tuesday evening looking for a
15 note?

16 A No, I had not.

17 Q Had it occurred to you as of this point in
18 time that someone ought to look for a note?

19 A It was my impression, Mr. Chertoff, when I
20 was told the news, that there was no note. I don't
21 recall if I specifically asked about a note, but at
22 some point during the evening, Tuesday night, I had,

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1 I believe, reached a conclusion there was no note or
2 I would have been told about it.

3 Q When you say there wasn't a note, you mean
4 no note at the site where the body was found?

5 A I don't know that I quite went to that
6 level of detail, but there was no suicide note that
7 had been found, or I would have been told about it.

8 Q During the period of time between the
9 moment you first learned about the discovery of
10 Mr. Foster's body up through this press conference,
11 was there any discussion about whether Mr. Foster had
12 written something that might explain why he took his
13 life?

14 A I don't recall any discussion. Again, I
15 had the impression and had reached a conclusion that
16 there was no suicide note or no information or note
17 left that would explain this tragedy. That was my
18 feeling and conclusion at the time.

19 Q Is it fair to say that, during this period
20 of almost 24 hours from the time you discovered
21 the -- where you learned about the discovery of the
22 body, that there were questions raised by people

1 about why Mr. Foster would have taken his life?

2 A Oh, I think it was natural for people to
3 have a question why someone -- why anyone takes their
4 life.

5 Q I mean, people wondered during this period
6 whether there was a particular reason that caused it;
7 is that correct?

8 A I think it's, again, a natural reaction why
9 anyone takes their life; in this case, why Vince
10 Foster took his.

11 Q Was there discussion during this period of
12 time, again up until this press briefing on July
13 21st, about what steps could be taken to find out if
14 there was a particular reason?

15 A That was not my focus, and I don't recall
16 that being the focus of any particular person. And
17 when I commented or responded to you about it's
18 natural to always wonder what leads someone to take
19 their life, it was not in the sense of we need to
20 have an exhaustive investigation to try to determine
21 that. I think it was felt that Vince was very
22 depressed and irrational in his thinking -- as anyone

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1 is who takes their life -- and that's why he had
2 committed suicide.

3 Q So as of that point in time, July 21st,
4 your understanding was that he had been, for some
5 period of time, depressed?

6 A No, I didn't say that. I think I made a
7 generalization there that when one takes their life,
8 your usual thoughts are they are not thinking clearly
9 or are in somewhat of a depressed state. That was
10 generally how I viewed the situation with Vince now
11 that this tragedy had occurred.

12 Q Do you remember whether Mr. Foster had a
13 security clearance higher than top secret?

14 A I don't know specifically what Mr. Foster's
15 security clearance was.

16 Q Was it your understanding he had some sort
17 of security clearance?

18 A To the extent I had focused on it, yes. As
19 deputy White House counsel, it seemed to me that he
20 would have some level of security clearance.

21 Q You would understand that, in the course of
22 his duties, he would be handling very sensitive

1 documents that would be, in some instances, of
2 natural security secrecy?

3 A Again, to the extent I focused on it, the
4 White House counsel's office would handle some
5 documents that are sensitive in nature. National
6 security would run a bit more to the national
7 security counsel and those members, but there
8 certainly could be occasion where the White House
9 counsel's office would be aware of information or
10 might handle documents.

11 Q During the period of time up to and through
12 this afternoon press briefing, were you aware of any
13 conversations about there needed to be an examination
14 of the circumstances of Mr. Foster's death in view of
15 the fact that he might have been handling sensitive
16 materials?

17 A I don't know that I focused on that issue
18 during this time period.

19 Q Was there someone that you relied upon to
20 address that issue?

21 A Yes. It was my understanding that
22 Mr. Nussbaum was responsible for this and would

1 discharge those responsibilities and handle all of
2 the matters of this type that would invariably come
3 up.

4 Q After this press briefing which took place
5 at approximately 3:30 in the afternoon, do you
6 remember what else you did that day in connection
7 with Mr. Foster's death?

8 A I do not remember it particularly well,
9 Mr. Chertoff. As we've already confirmed, I didn't
10 recall the press briefing until you reminded me of
11 it. At some point we had a meeting with the entire
12 White House staff, as I remember it. And I spoke,
13 the President spoke, and we wanted to honor Vince in
14 the right way and to handle this matter in the right
15 way in terms of communications internally. I
16 remember that meeting vaguely, and I don't recall
17 much else about the day, frankly.

18 Q During that day on the 21st, did the
19 President, to your knowledge, go into the White House
20 counsel's suite?

21 A To my knowledge, he did not.

22 Q Did you go into the White House counsel's

1 suite?

2 A I don't recall that I did. I may have, but
3 I don't recall that I did, Mr. Chertoff.

4 Q Did you go to retrieve a certain photograph
5 that had been taken many years ago when you and
6 Mr. Foster and the President were children?

7 A I don't recall that I did.

8 Q Do you recall asking Mr. Nussbaum to go in
9 and retrieve a certain photograph from Mr. Foster's
10 office?

11 A No, I do not.

12 Q Do you know whether on the 21st of July the
13 office was locked, Mr. Foster's office?

14 A No, I do not.

15 Q Do you know if it was secured in any
16 fashion?

17 A Again, it was my impression that
18 Mr. Nussbaum was responsible for these matters and
19 was handling things in a proper way.

20 Q Now, on Wednesday, July 21st, did you come
21 to understand that Mr. Nussbaum was meeting or had
22 met with officials of the Department of Justice?

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1 A I don't recall whether I was aware of any
2 specific meetings that Mr. Nussbaum had.

3 MR. TAYLOR: This is the 21st still?

4 MR. CHERTOFF: Still the 21st.

5 BY MR. CHERTOFF:

6 Q And still on the 21st, did you have any
7 general knowledge that he was dealing with the
8 Department of Justice, such as the Attorney General?

9 A I don't think I got into the level of
10 detail of what meetings he was having with whom other
11 than the matters that would come up surrounding this
12 tragedy. He was responsible for those activities,
13 and the White House counsel's office seemed to be the
14 appropriate place for those activities to be handled.

15 Q As of the end of the day on July 21, 1993,
16 did you have any understanding about what procedure
17 would be followed by any law enforcement officials in
18 terms of investigating the circumstances of
19 Mr. Foster's death?

20 A I don't recall any knowledge or report on
21 any specific procedures by law enforcement officials
22 on or around this time.

1 Q Did you have any knowledge as of July 21st,
2 the close of business or the end of the day on July
3 21st, about what was going to be the procedure of the
4 review or handling of the documents in Mr. Foster's
5 office?

6 A No, I don't recall that I did.

7 Q Let me direct your attention to the next
8 day, which is Thursday, July 22nd. And just to help
9 you put it in perspective, am I correct on the next
10 day, July 23rd, you went to Arkansas for the funeral?

11 A Yes, I believe that's right.

12 Q And you went with the President?

13 A Yes.

14 Q And you left in the morning?

15 A Yes, I believe that's correct.

16 Q So the 22nd would be the day before that
17 departure, just to help you place it in time. Did
18 you have occasion on that morning of the 22nd to talk
19 to Mr. Nussbaum regarding what was going to happen in
20 the investigation or review of documents in
21 Mr. Foster's office?

22 A I don't recall a specific discussion or

1 conversation with Mr. Nussbaum on that day. Again,
2 it was my understanding that any matters that would
3 arise out of this tragedy -- and there were certainly
4 going to be some -- that the White House counsel's
5 office would deal with those matters properly. And
6 Mr. Nussbaum was the White House counsel, and that's
7 who I relied on to handle these matters. But I
8 didn't get into the level of detail about particular
9 meetings or particular procedures that I recall.

10 Q During the 22nd up until, let's say,
11 approximately 1:00 in the afternoon, did you have any
12 discussions with anybody concerning how documents in
13 Mr. Foster's office would be reviewed?

14 A I don't recall that I did, Mr. Chertoff.

15 Q It was not a matter that you were concerned
16 about?

17 A I didn't get into that level of detail
18 about specific procedures or document handling. That
19 was the responsibility of the White House counsel's
20 office, and I felt they were the proper people to
21 deal with these types of matters.

22 Q Did you ask Mr. Nussbaum to consult with

1 anybody about these matters?

2 A I don't recall that I did.

3 Q Are you familiar with an individual by the
4 name of Jack Quinn?

5 A I am.

6 Q And at that time, which is to say July 22,
7 1993, was Mr. Quinn counsel to the Vice President?

8 A Yes. During that time period, I believe
9 that's right. He's now chief of staff to the Vice
10 President.

11 Q Again, during the period of time up to and
12 including July 22, 1993, was it your practice to ask
13 Mr. Quinn from time to time to consult on matters
14 involving White House counsel's office?

15 A I don't recall if that was my practice. I
16 had a very high opinion of Mr. Quinn and asked for
17 his counsel often, but it was not my practice to ask
18 him to intervene in particular matters in the
19 counsel's office.

20 Q What was Mr. Quinn's background?

21 A Mr. Quinn, as I understood it, was and is a
22 lawyer, had practiced here in Washington, had known

1 the Vice President and the President. I had gotten
2 to know him a bit during the transition, and he
3 impressed me as a very capable professional.

4 Q Did you understand him to have had any
5 background or experience in criminal law matters or
6 criminal investigative matters?

7 A I don't think I knew of his specific
8 practice.

9 Q On the 22nd, did you ask Mr. Quinn either
10 directly or indirectly to participate in discussions
11 with Mr. Nussbaum concerning how the documents of
12 Mr. Foster would be handled?

13 A I don't recall any involvement with
14 Mr. Quinn until I prepared for this deposition, when
15 the matter was raised with me, and I honestly don't
16 recall whether I asked Mr. Quinn or he suggested that
17 he had thoughts that he wanted to convey. I just
18 don't remember, Mr. Chertoff.

19 Q Well, putting aside how this got
20 instigated, what is your understanding of the role
21 Mr. Quinn played in the process of addressing the
22 review of Mr. Foster's documents on July 22nd?

1 MR. TAYLOR: I object and would simply ask
2 that we agree that his understanding of the role
3 Mr. Quinn played, a question which calls for his
4 understanding is calling for his understanding at
5 that time.

6 BY MR. CHERTOFF:

7 Q Let me ask you this: Putting aside your
8 conversations with your attorney, what's your
9 understanding at any time of the role Mr. Quinn
10 played with respect to this particular issue of the
11 handling of Mr. Foster's documents on July 22nd?

12 A I didn't recall Mr. Quinn had played any
13 role until preparing, I think, for this deposition.

14 (Pause.)

15 BY MR. CHERTOFF:

16 Q Getting back to Mr. Quinn, do you recall
17 whether, on Thursday, July 22nd until approximately
18 1:00 in the afternoon whether you had conversations
19 with Bill Kennedy concerning Mr. Quinn?

20 A No, I don't recall that I did.

21 Q Do you know whether Mr. Kennedy suggested
22 to you that Mr. Quinn be brought into the matter?

1 A I don't remember Mr. Kennedy visiting with
2 me about Mr. Quinn's involvement.

3 Q Did he call you about Mr. Quinn's
4 involvement?

5 A No -- I don't remember, as I've already
6 told you, Mr. Chertoff. I didn't remember or recall
7 anything about Mr. Quinn's involvement until I was
8 preparing for this deposition and the matter was
9 raised with me.

10 Q Let me show you what's been marked Z770,
11 and you'll look in the upper -- I'll show it to you
12 in a second, but in the upper left-hand corner of the
13 page, it's to Bill, date 7/22, time 9:45, from Mack,
14 and the message says "talk to him re: Jack Quinn
15 (they met)." And it's signed operator P.

16 MR. TAYLOR: What was your ID number here?

17 MR. CHERTOFF: It's in the middle. Z770.

18 BY MR. CHERTOFF:

19 Q Does that refresh your memory that you
20 either had a conversation with Mr. Kennedy or tried
21 to have a conversation with Mr. Kennedy?

22 A No, I think this would be Bill Burton,

1 Mr. Chertoff, not Bill Kennedy.

2 Q Do you remember whether you had a
3 conversation with Mr. Burton about Jack Quinn?

4 A I do not recall that I did.

5 Q As of the morning -- and by "morning," I
6 mean up to approximately 1:00 in the afternoon of
7 July 22nd -- were you aware of a dispute between the
8 Department of Justice and Mr. Nussbaum about the way
9 in which documents in Mr. Foster's office would be
10 reviewed?

11 A No, I was not.

12 Q Were you concerned about the way in which
13 the documents in Mr. Foster's office would be
14 reviewed?

15 A I had no reason to be concerned at that
16 point, no. To the best of my memory, nothing had
17 been brought to my attention about any dispute over
18 documents or procedures.

19 Q On July 22nd in the afternoon, were you
20 aware that there was a review of documents in
21 Mr. Foster's office that took place in the presence
22 of law enforcement officials?

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1 A I may have been aware of it. I don't
2 recall that I was. I don't believe I was at the
3 meeting or attended the meeting.

4 Q Do you remember how you learned about it?

5 A I'm not sure I was aware, but I may have
6 been aware of it. But I don't recall that I was.

7 Q During the balance of that day, did you
8 have any knowledge about movement of documents from
9 Mr. Foster's office into Maggie Williams's office or
10 into the residence of the White House?

11 A No, I did not.

12 Q Do you remember whether you spoke to Maggie
13 Williams on July 22 concerning Vincent Foster's death
14 or the investigation of that death?

15 A I don't recall that I spoke to Maggie on
16 that day at all, and not about the particular matter
17 that you asked about.

18 Q During the -- July 21st or July 22nd, were
19 you aware that any trash that emanated from the White
20 House counsel's suite had been retrieved and held for
21 safekeeping?

22 A At some point I became aware there was some

1 trash that had been placed in Roy Neel's office, who
2 was deputy chief of staff, that had been in
3 Mr. Foster's office. And I'm not sure, Mr. Chertoff,
4 when I was aware of that, whether it was the next day
5 or subsequent. I just honestly don't remember.

6 Q Do you know how it came to your attention?

7 A No, I do not.

8 Q Putting aside what you've learned from your
9 attorneys, did there ever come a point in time when
10 you learned that documents had been moved from
11 Mr. Foster's office to the residence of the White
12 House?

13 A What do you mean "putting aside" what I've
14 learned from my attorneys? Disregarding that?

15 Q Aside from what Mr. Taylor has told you or
16 his partners or associates, did there come a time
17 when you learned that documents had been removed from
18 Mr. Foster's office into the residence?

19 A I think it became a matter of public
20 interest or record as of last June.

21 Q When there was a story in the paper about
22 the fact that documents were stored --

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1 A I believe that's right. Mr. Chertoff, just
2 as a matter of context here -- I obviously want to be
3 forthright and truthful, but you've got to somewhat
4 recognize it's been two years since his death.
5 There's been so much information in the press,
6 preparing for these depositions, information at the
7 time -- and I'll do the very best I can to tell you
8 when I heard of it, but I could easily make a mistake
9 there.

10 Q I understand that.

11 A I just wanted to put it in context.
12 There's been a lot of information.

13 Q We're just asking you to do the best you
14 can.

15 A I just wanted to put it in that context.

16 Q You recall that last summer there was a
17 story or stories about documents having been removed
18 or taken from Mr. Foster's office and put in the
19 residence for a period of time?

20 A I recall the story.

21 Q Did you learn about this before the stories
22 appeared?

1 A I can't say with certainty I did. I may
2 have known about it a day or two before the story,
3 but I don't recall. I think I became aware of this
4 from press accounts.

5 Q After you became aware of it, did you talk
6 to Mr. Nussbaum about it?

7 A I don't recall talking to Mr. Nussbaum
8 about it.

9 Q Did you talk to Maggie Williams about it?

10 A No, I don't believe I did.

11 Q Did you talk to anybody in the White House
12 about it?

13 A No, I don't recall that I did.

14 Q Did you make a decision -- specific
15 decision not to talk to anybody about it?

16 A No, I don't recall that. No, I don't
17 recall going through that type of process. Let me
18 confer just a second.

19 (Witness conferred with counsel.)

20 I couldn't quite remember some of the time
21 frames, Mr. Chertoff. One probably impeding factor
22 in discussing this is some review and hearings and so

1 forth, probably interviews and depositions that
2 already begun, and I would have felt constrained in
3 terms of talking to someone during this time period.

4 Q So is it fair to say that because of your
5 awareness that there was some investigative activity
6 going on, you felt it was appropriate for you not to
7 have discussions with other people who may have been
8 involved?

9 A That's, I believe, fair.

10 Q When did you return from the funeral in
11 Little Rock?

12 A As I remember it, we came back Friday night
13 after the burial in Hope. The actual service had
14 been in Little Rock. The burial was in Hope.

15 Q You came back to Washington Friday night?

16 A Yes, that's what I remember.

17 Q Did you come back with the President?

18 A Yes, I did.

19 Q When did the First Lady come back?

20 A She came back with the President also, I
21 believe.

22 Q On Friday night?

1 A Yes.

2 Q Is it your understanding that the President
3 and the First Lady were in the residence on Saturday
4 and Sunday?

5 A Mr. Chertoff, I believe that's correct.
6 Without reviewing the President's schedule, I can't
7 say with certainty, but I believe that's right.

8 Q Did you have conversations with them over
9 the weekend concerning Mr. Foster's death?

10 A I don't recall that I did.

11 Q Do you remember if you were with them at
12 all on Saturday and Sunday?

13 A Mr. Chertoff, without checking my schedule
14 and/or the President's, I don't know. It's possible
15 that I talked to the President or perhaps was even
16 with him. It wouldn't be reflected on my schedule.
17 I don't recall being with him on that weekend.

18 Q Directing your attention to the Monday --
19 which is July 26, 1993 -- now, did the President go
20 out of town on that day to Chicago?

21 A That's right.

22 Q Do you remember if he left Monday morning

1 or Sunday night?

2 A I believe we left Monday morning.

3 Q And you went with him?

4 A Yes, I did.

5 Q And the First Lady remained behind?

6 A That's right.

7 Q As of that point in time, as of that
8 Monday, what was your understanding, if any, of the
9 condition of Mr. Foster's office in terms of whether
10 it was still being secured or unsecured?

11 A It was my understanding that any matters of
12 that type were moving forward in a manner that was an
13 appropriate one. And by that point in time, my
14 thoughts had turned to resuming the President's
15 schedule and moving forward with other matters that
16 were on the President's agenda.

17 Q Did there come a time when you were in
18 Chicago that you learned that a writing had been
19 discovered in Mr. Foster's office?

20 A There was.

21 Q How did you learn about that?

22 A As I remember it, Mr. Burton called me. I

1 had attended a luncheon with the President where he
2 had spoken, and I had broken off to finish my work
3 and phone calls -- return phone calls and so forth
4 while the President kept his schedule. And I had
5 forgotten what his schedule was at that point, but I
6 had separated from him.

7 So I was in a room in a hotel there where
8 the President was staying for the day, or we were
9 basing there for the day, so to speak. And
10 Mr. Burton called me and related, as I remember it,
11 related scraps of paper had been found that appeared
12 to be a note from Mr. Foster, and I believe he handed
13 the phone to Mr. Nussbaum who was standing by him,
14 and Mr. Nussbaum may have related that or
15 Mr. Burton. I don't recall precisely who said what.

16 Q Was it your understanding that they were
17 calling you from the White House counsel's office?

18 A I don't remember their saying what office
19 they were calling me from, or my asking.

20 Q Were you on the speaker -- did they put you
21 on a speakerphone, or were they passing the cradle
22 back and forth or the handle back and forth?

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1 A I believe they were passing the receiver
2 back and forth, but I don't recall specifically.

3 Q Other than Mr. Burton and Mr. Nussbaum, was
4 it your understanding that anybody else was present
5 in the room?

6 A It was my impression, understanding it was
7 just the two of them.

8 Q Did they read you the note?

9 A Yes, I believe Mr. Nussbaum did.

10 Q And did a discussion arise about how the
11 note should be handled?

12 A Yes.

13 Q What was the discussion?

14 A As I remember it, I was understandably, I
15 think, surprised to learn of this and had just a
16 little trouble, I think, dealing with it because as I
17 commented to you we had resumed the schedule and were
18 trying to remember Vince in a proper way but trying
19 to put the tragedy somewhat behind us. And this came
20 as a surprise and shock, and I was just taken aback
21 by it.

22 I also was also very intent on seeing the

1 note. I couldn't understand it. I was particularly
2 perplexed. It had no signature or date, and to my
3 recollection, it did not refer to suicide or taking
4 one's life, so I was perplexed by that. As I
5 remember it, the public disclosure of the note -- it
6 had some comments about the press and the FBI -- was
7 going to be yet another difficult matter for the
8 Foster family to handle.

9 And again, to the extent that one can move
10 past that, or at least had reached a period where we
11 had had the funeral and so forth. And I believe --
12 at that point, I think there were two phone calls.
13 Mr. Nussbaum raised a couple of legal matters
14 regarding privilege, and then either he raised or I
15 raised or we both raised the notification of the
16 Foster family, in keeping with my earlier
17 conversation. So that was the tone of the visit.

18 Q Was there a discussion that evening in
19 either one of these two phone conversations about
20 when the Department of Justice should be notified
21 that a document had been found?

22 A I don't recall a specific matter of when.

1 What I remember of the two conversations -- and there
2 may have been more; I believe there were only two --
3 were really the elements that I just described to
4 you. And given that I wanted to see the note and
5 first was surprised and taken aback by the existence
6 or the hearing of such a note, Bernie had raised what
7 he considered to be the genuine legal issues, and the
8 Foster family notification was an issue. Given the
9 lateness of the day, we concluded that let's sleep on
10 this. Let me get back to Washington to see the note,
11 let you reflect on the matters you've raised, and
12 let's deal with this tomorrow and make a decision on
13 what's the best way to proceed.

14 Q In that second phone call in the evening,
15 do you remember whether anybody else was present
16 besides Mr. Burton and Mr. Nussbaum?

17 A In terms of the Washington --

18 Q On the Washington side.

19 A To my knowledge, no one else was there.

20 Q Was anybody else present on your side?

21 A I don't believe they were. I had conferred
22 with Mr. Gergen about this, who was in the room next

1 to me. He had been involved in the communication
2 with the press and so forth the evening of the
3 suicide, as I've already told you, and I wanted to
4 get his thoughts and opinion and counsel on this,
5 which I did; but I don't believe he was there when I
6 talked to Mr. Nussbaum. I can't say with certainty.
7 He may have been. I just don't remember.

8 Q Do you remember what his advice was that
9 evening concerning how the writing ought to be
10 handled?

11 A He was, I think, also surprised with this
12 note, and I believe he was also a bit perplexed about
13 what the note was and so forth. And I think we both
14 felt it would have to be publicly disclosed or would
15 become a matter of public knowledge, and that meant
16 there would be issues with the Foster family and the
17 press responses and so forth that would have to be
18 dealt with. I think I conveyed to him my being
19 perplexed, that I wanted to see the note, it didn't
20 seem to quite make any sense to me, and that Bernie
21 had raised legal issues of privilege, and we
22 concluded that we would address these issues and this

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1 matter the next morning, which we did.

2 Q Putting aside the issues of privilege and
3 the content of the note, was there discussion on
4 Monday evening about notifying the Department of
5 Justice that something had been found?

6 A I don't recall the specific matter of
7 notifying the Department of Justice being raised
8 during my conversation. It may have been,
9 Mr. Chertoff; I don't remember it. And again, I
10 think the same issues would have arisen, particularly
11 my wanting to see the note and the notification of
12 the Foster family, but I don't recall specifically
13 notifying the Department of Justice being raised.

14 MR. TAYLOR: Is your question whether there
15 was a question about the specific alternative of
16 advising the Department that something had been found
17 but not telling them what it was?

18 MR. CHERTOFF: That's right.

19 MR. TAYLOR: Did you understand --

20 THE WITNESS: No, I don't think I
21 understood the question.

22 BY MR. CHERTOFF:

1 Q With the clarification that Mr. Taylor has
2 put on the record, which is whether there was
3 discussion about notifying the Department of Justice
4 about the fact that something had been found, putting
5 aside when you were going to show them the note, was
6 that option addressed Monday night?

7 A I don't recall that it was.

8 Q Did you tell the President on Monday night
9 that something had been found?

10 A No, I did not.

11 Q Why not?

12 A For the reasons, really, that I've already
13 suggested. I wanted to see the note, and I wanted to
14 have all of this in reasonably good order when it was
15 related to the President. And it just didn't seem to
16 me that we had this matter in good order to give him
17 half information about what the note was and so
18 forth.

19 Q Were you planning to stay over or was the
20 President planning to stay over in Chicago on Monday
21 night?

22 A No, I think our schedule was to come back

1 that evening.

2 Q Did you, in fact, come back that evening?

3 A We did.

4 Q Do you remember what time you came back?

5 A I think it was early/mid-evening. I think
6 we arrived around 10:30 or 11:00.

7 Q Did you go to look at the note after you
8 came back?

9 A No, I did not.

10 Q Why didn't you go to see the note when you
11 got back?

12 A It was later in the evening. The day was
13 complete, and we had discussed by telephone that we
14 would meet the next morning. That was the agreed
15 time and place to deal with this, which we did.

16 Q And for that entire night, until you got
17 back to the White House, you didn't raise this issue
18 at all with the President?

19 A No, I did not.

20 Q Was it your understanding that the First
21 Lady was aware a note had been found?

22 A Yes, it was.

1 Q How did you come to that understanding?

2 A I believe Bernie had related to me that he
3 had told the First Lady about this note and that she
4 had said this is not a matter for me to be involved
5 in. You handle this.

6 Q He told this to you on the telephone that
7 night?

8 A That's right. Monday afternoon, actually.

9 Q Monday afternoon. Did he indicate to you
10 under what circumstances he told the First Lady about
11 this?

12 A No, he did not.

13 Q Did he say that the First Lady had come
14 over to the White House counsel's office?

15 A No, he did not. The First Lady's office is
16 near the counsel's office, but he didn't relate how
17 he told her.

18 Q Did he indicate to you whether the First
19 Lady had seen the note?

20 A He may have indicated that.

21 Q I want to be quite clear on this. Did he
22 tell you that she had seen the note, or did he tell

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1 you that she hadn't seen the note?

2 A Mr. Chertoff, I don't recall specifically.
3 Basically, what I gathered from Bernie, he had either
4 shown or told the First Lady that he had found a note
5 or at least scraps of paper. And he either told
6 me -- or my impression was he had related what was in
7 the note or what the note said. And he related to
8 me, as I remember it, the First Lady's reaction was
9 to be a bit upset, emotional and responded to him
10 this is not a matter I should be involved in, that
11 this is a matter you should handle, and I don't want
12 to deal with it. That was my impression.

13 Q What was your understanding of what it was
14 Mr. Nussbaum had suggested or raised with the First
15 Lady that she would be dealing with?

16 A I don't know that he suggested anything,
17 that she deal with anything other than just telling
18 her of the note. And I think her reaction was I
19 don't want to get involved in this; this is your
20 responsibility as White House counsel.

21 Q And so you don't know from that
22 conversation -- you didn't know from that

1 conversation whether she had actually seen the note?

2 A No, I was not there, so I don't know. And
3 I don't recall specifically whether Mr. Nussbaum said
4 I showed her the note or related the note to her,
5 Mr. Chertoff. I just wasn't there. I don't know.

6 Q At some later point in time, did you learn
7 whether on that evening the First Lady had looked at
8 the note?

9 A I don't think I had any further discussions
10 about the First Lady's involvement or whether she had
11 seen the note or not.

12 Q On the next morning -- withdrawn.

13 Let me get back to the night before. Just
14 to be clear, did Mr. Nussbaum raise this issue with
15 the First Lady with you, or did you ask Mr. Nussbaum
16 has the First Lady seen the note?

17 A I believe Mr. Nussbaum told me that.
18 That's how I remember the conversation.

19 Q He volunteered it?

20 A He told me that, yes.

21 Q In the conversations you had with
22 Mr. Nussbaum, what did he tell you about where the

1 note had been found?

2 A As I remember it, Mr. Chertoff, he
3 explained that Mr. Foster's office, the effects in
4 Mr. Foster's office were being removed; I believe
5 being returned to the family. And during the course
6 of that activity, Mr. Neuwirth, who was an associate
7 of Mr. Nussbaum's in the White House counsel's
8 office, had, as I originally understood it, turned
9 the briefcase upside down and scraps of paper came
10 out. And Mr. Neuwirth reported this to Mr. Nussbaum,
11 and that's how the note had been found.

12 Q Did you have any conversation with him
13 about how it is that this note hadn't been previously
14 located?

15 A I reacted with surprise that it had been
16 found after -- or at this point in time. In
17 Mr. Nussbaum's description of how the note was found,
18 he basically answered that question that it had not
19 been found earlier when files were reviewed in
20 Mr. Foster's office and basically explained that in
21 reviewing files, you would not necessarily turn a
22 briefcase upside down, because you would be able to

1 see the files. He basically explained that, and he
2 said he felt very badly that these scraps of paper or
3 this note had just now been found, and I accepted
4 that information.

5 Q Were you concerned when you heard this
6 story about how the pieces of paper had been found
7 that there might be some public criticism of the way
8 in which this whole review of Mr. Foster's office had
9 been handled?

10 A No, my thoughts didn't go to that broad a
11 sweep, so to speak. My thoughts really went more to
12 this was going to be an issue that the Foster family
13 was going to have to deal with, and again, I was, for
14 some reason, just very intent on seeing the note. I
15 knew Vince's handwriting, and the note just didn't
16 make sense to me. The fact it didn't have a date and
17 a signature bothered me, and I had, for some reason,
18 an intent to see the note. Once I saw it the next
19 morning, it was obvious to me it was Vince's
20 handwriting.

21 Q Why did the absence of a date and signature
22 mean something to you?

1 A I think the note being described -- since
2 it was in the same time period as the suicide of
3 Vince Foster, your thoughts ran to it being in some
4 way related to the suicide, either explaining why he
5 took his life or having some direct relevance there.
6 And it didn't strike me that was the case.

7 Q When you read the note, what was your
8 reaction?

9 A By the next morning, I had internalized the
10 finding of the note a bit, I think. And my reaction
11 was much the same, perhaps a bit more studied, but
12 much the same: That this was going to be a difficult
13 matter for the Foster family; the fact that it had
14 not been found initially was going to be of some
15 issue. The reference made in the note to the FBI and
16 the press and so forth and so on all would be
17 issues. And it was just really regrettable, but it
18 had to be dealt with as appropriately and properly as
19 you knew how, and that's what we proceeded to do.

20 Q The next morning, Tuesday, July 27th, you
21 had a meeting in the morning concerning the note;
22 correct?

1 A Yes, I believe that's the case. I honestly
2 do not recall the meeting clearly, but I'm certain
3 that we had some type of meeting because that's what
4 we had agreed to do.

5 Q Now, in that meeting, Mr. Burton was
6 present?

7 A I don't recall the specific meeting,
8 Mr. Chertoff. I'm sorry, I just honestly don't
9 recall that meeting.

10 Q Do you remember if Mr. Gergen was present?

11 A He may have been, but I don't recall the
12 meeting. What would have seemed logical is
13 Mr. Burton, Mr. Gergen and Mr. Nussbaum and -- since
14 we were involved in a phone conversation. But there
15 may have been others, and there may have been less.
16 I just don't remember the meeting.

17 Q Do you remember seeing the note that
18 morning?

19 A I don't remember seeing the note that
20 morning. I must have, because I have already said
21 once I saw the note, it was Vince's handwriting,
22 which I just vaguely recall it. I don't clearly

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1 recall seeing the note, but I must have seen it.

2 Q Putting aside --

3 A I don't clearly recall seeing the note that
4 morning. I do clearly, for some reason, recall
5 seeing the note later in the day.

6 Q When do you recall seeing the note?

7 A When we met with the Park Police later that
8 night. I remember Mr. Nussbaum laying the note out
9 and -- for some reason I remember that, but I must
10 have seen the note that morning.

11 Q Putting aside the specifics of the meeting,
12 during the course of that morning, was there
13 discussion you had about letting the President know
14 about the note?

15 A As I remember, we wanted to notify
16 Mrs. Foster, we wanted to notify the President, and
17 we wanted to provide the note to the proper
18 authorities, which meant that we were going to be
19 dealing with public inquiry then or shortly
20 thereafter. That was generally the process and
21 thought pattern I recall from that morning.

22 Q During the morning, did you make an effort

1 to notify the President or get a copy of the note to
2 the President?

3 A Mr. Chertoff, what I remember is I believe
4 I called Mrs. Foster shortly after a staff meeting
5 and probably shortly after a meeting with
6 Mr. Nussbaum on this. It was probably a pretty short
7 meeting is the reason I don't remember it. And we
8 had moved into implementing the steps I just
9 outlined.

10 To my surprise, as I remember it, Lisa was
11 traveling to Washington that morning, which I had not
12 been aware of, and had already left and was in
13 transit. So that was a bit of a complication and an
14 unexpected delay. As I remember it also, the
15 President had a very full schedule, and basically the
16 notification of Mrs. Foster and the President were
17 the two internal notifications that we had to make.

18 As I remember it, she was going to be
19 arriving mid- to late afternoon, and we had hoped to
20 see her between 3:00 and 4:00. As it turned out -- I
21 think then I called the Foster home in that time
22 period, and as I remember it, there was no answer,

1 and I was a bit concerned by that. And I believe
2 what had happened, she had gone to Mr. Hamilton's
3 office, her attorney here.

4 At any rate, by later in the afternoon,
5 sometime after 3:00, we did see the President. I
6 think it was 4:00 or 4:30, somewhere in that time
7 frame notified him of the note, and then Mrs. Foster
8 had come to the White House, which I don't believe I
9 was aware of that she was coming, and we shortly told
10 her of the note. And then at that point, just to
11 finish it out, we saw the Attorney General and
12 Mr. Heymann later in the evening.

13 Q Until the Attorney General and the deputy
14 Attorney General came over --

15 A Those were the sequence of events.

16 Q Was there any notification made to any law
17 enforcement authorities that a note had been found?

18 A To my knowledge, there had not been.

19 Q Why not?

20 A Mr. Nussbaum was handling the interface
21 with the authorities, and to my knowledge he had not
22 notified anyone. He may have, but I certainly was

1 not aware of it. My thought was to notify the Foster
2 family if they were not aware of this because it was
3 going to have some public press and so forth; to tell
4 the President about it as a matter of information,
5 which is what we did; and then to tell the proper
6 authorities and have a disclosure to the press, if
7 that was required -- or anticipate that there would
8 shortly be inquiries from the press. That was the
9 sequence.

10 Q Did you consider at all during that day,
11 Tuesday the 27th, whether the law enforcement
12 authorities ought to at least be told something had
13 been found even if they weren't shown it yet?

14 A I don't recall my focus on that particular
15 matter during the day. There were a lot of other
16 matters going on in the White House that day, and I
17 don't recall my focusing on that specific matter.

18 Q Your view is that Mr. Nussbaum was the one
19 that was going to take charge of that?

20 A Yes, he was responsible for those types of
21 interfaces with the proper authorities.

22 Q Were you present when the President was

1 notified about the note on the 27th in the afternoon?

2 A Yes, I was.

3 Q Was he shown the note?

4 A I don't recall whether Mr. Nussbaum showed
5 him the note or not. I don't believe he did. I know
6 I did not.

7 Q Did he show him a transcription or a copy
8 of the note?

9 A Mr. Chertoff, I don't remember.

10 Q What was the President's reaction at that
11 occasion, when he was told about the note? Can you
12 tell us exactly, as best you can remember, who said
13 what to whom?

14 A As I remember it, I went into the Oval
15 Office first to tell him of the finding of the scraps
16 of paper or the note. Mr. Nussbaum shortly joined us
17 after that. The President -- I want to be sure I'm
18 accurate in my memory. I don't remember the
19 specifics, frankly. It was a short visit. He
20 basically said well, you've found the note, and you
21 deal with it as you see fit. I appreciate you
22 notifying me.

1 Q Did you tell the President about the
2 circumstances under which it had been found?

3 A I don't recall the specifics of that
4 conversation. I would think we would have relayed
5 that to him.

6 Q You don't remember what his reaction was to
7 that?

8 A It was about what I just told you. It was
9 that kind of reaction. He accepted the information.
10 He acknowledged that he received it and understood it
11 and told us to deal with it in a manner we thought
12 was proper, and that was really about it.

13 Q When you first went in to tell him that a
14 note had been found, did he express surprise?

15 A Perhaps a bit so, but I don't recall any --
16 his saying he was surprised. It was more receiving
17 the information, is how I remember his general
18 attitude.

19 Q Did he say he had already known that a note
20 had been found?

21 A He did not say that.

22 Q Was it your impression that he had prior

1 knowledge?

2 A No, it was not my impression.

3 Q Did it puzzle you that Mrs. Clinton had not
4 mentioned this to him in the preceding 24 hours?

5 A Mr. Chertoff, I didn't really focus on that
6 matter, frankly.

7 Q Does it puzzle you now?

8 A Not particularly, no.

9 Q During the conversations with Mr. -- let me
10 withdraw that question.

11 During conversations earlier in the day
12 with people in the senior White House staff,
13 including possibly Mr. Gergen, was there a discussion
14 about the public perception of the manner in which
15 the note was found?

16 A I don't recall discussions during the day
17 about the public perception about the manner in which
18 the note was found. I think we -- at some point, as
19 I think I've already told you, I think that was an
20 obvious issue, as were the contents of the note, that
21 there would be certain press inquiries, and they
22 would have to be responded to and dealt with. I

1 think my primary line of thinking in that regard was,
2 frankly, more towards Mrs. Foster and the family.

3 Q Was there discussion on that Tuesday about
4 whether it would have been better if Bernie Nussbaum
5 or Bernie Nussbaum's office staff had been the people
6 who found the note?

7 A I don't recall any discussion of that type.

8 Q Was there discussion on that day about the
9 attitude of the Department of Justice as it might be
10 when they learned the note had been found?

11 A No, I don't recall any discussion about the
12 Department of Justice.

13 Q Do you remember talking about this the
14 following day, which would be Wednesday the 28th?

15 A I'm sure it was -- no. No, I don't
16 remember. I may have, but I don't remember
17 specifically on that day.

18 Q Did there come a time -- was there a
19 meeting on either the Tuesday or Wednesday about the
20 note that included Jim Hamilton?

21 A Yes, Tuesday afternoon, when Mrs. Foster
22 was told about the note. As I remember it,

1 Mr. Hamilton was with her in the White House, as I've
2 already related to you. And so he was present in the
3 White House when Mrs. Foster was told about this
4 note.

5 Q Was he also present in the White House
6 earlier that day, at or around 11:00 in the morning?

7 A I don't recall that he was. I don't
8 remember my seeing him or meeting him.

9 Q Do you remember a discussion in which he
10 was present, either on Tuesday or Wednesday, in which
11 the issue of the usher's office came up?

12 A Tuesday or Wednesday of that week?

13 Q Of that week.

14 A I don't remember a meeting with
15 Mr. Hamilton where the usher's office came up.

16 Q Do you remember any meeting or any
17 discussion on that Tuesday or Wednesday with or
18 without Mr. Hamilton in which the issue of the
19 usher's office came up?

20 A I don't remember any such meeting.

21 Q Was there discussion of the travel office
22 investigation on those two days, Tuesday and

1 Wednesday of that week?

2 A I don't recall my being part of any
3 discussion about the travel office during that
4 period.

5 Q On Wednesday, July 28th, did you learn that
6 a call had been received from the chief of staff to
7 the Secretary of the Interior?

8 A A call --

9 Q To the chief of staff's office, to your
10 office from Tom Collier, the chief of staff to
11 Secretary Babbitt?

12 A I don't recall that I did.

13 Q Did you either learn on that Wednesday or
14 learn later that Mr. Burton and Mr. Neel had had a
15 conversation with Mr. Collier?

16 A I don't remember that I learned of that
17 conversation. I may have been aware of it, but I
18 don't recall it specifically.

19 Q Did you learn on that Wednesday, July 28th,
20 that the Park Police were unhappy with the way in
21 which the previous week's document review had
22 occurred?

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1 A Let me confer with counsel just a second.
2 (Witness conferred with counsel.)

3 What I recall, and I don't remember the
4 day, whether it was Wednesday or Thursday sometime, I
5 believe during the week that you're referring to, I
6 learned through Mr. Gergen that Mr. Collier, who's
7 the chief of staff to Secretary of the Interior
8 Babbitt, had expressed some concern about the way
9 certain matters were being handled in the counsel's
10 office.

11 Given that information, I visited with
12 Mr. Nussbaum. He assured me that he would make every
13 effort to cooperate with both the Interior Department
14 and other officials. I did not get into a level of
15 detail, as I remember the conversation, about the
16 matters. It did not strike me as unusual that
17 various parties, attorneys and so forth, would have a
18 somewhat different view about how certain things
19 might be handled; given my prior experience in
20 business, that seemed to be more the norm, so it did
21 not strike me as unusual.

22 But I was very clear with Mr. Nussbaum that

1 while I understood his desire to be balanced and
2 orderly about this process, that he needed to make
3 every effort to be cooperative. He assured me that
4 was his intention, and he would do so. And shortly
5 after that conversation, I received feedback from
6 Mr. Gergen -- I believe from Mr. Collier, although I
7 can't say that with absolute memory and certainty --
8 that indeed things seem to be progressing in a much
9 more orderly and agreeable way.

10 Q During that week, did you also hear that
11 the Department of Justice was unhappy with the way
12 Mr. Nussbaum had handled things?

13 A No, I don't believe I was aware of that.

14 Q Were you aware of a call from Mr. Heymann
15 concerning that issue on that week?

16 MR. TAYLOR: To who?

17 MR. CHERTOFF: To someone in the White
18 House.

19 THE WITNESS: Mr. Chertoff, I don't believe
20 I was aware of any call from Mr. Heymann.

21 BY MR. CHERTOFF:

22 Q You knew Mr. Heymann was the deputy

1 Attorney General?

2 A Yes, I knew that.

3 Q As of the weekend of July 26th, were you
4 aware he had taken personal charge of supervising
5 this investigation into Mr. Vincent Foster's death
6 and the documents in his office?

7 A I don't think I had concluded he had taken
8 personal charge, to use your phrase. I probably was
9 aware he was involved.

10 Q Now, on Tuesday night, the 27th, he was
11 present with the Attorney General when you made
12 disclosure of the note?

13 A That's how I remember it.

14 Q What was the Attorney General's reaction?

15 A The Attorney General's reaction was
16 Mr. Nussbaum, or Bernie, you should not be giving
17 this note to me. You should be giving this note to
18 the proper authorities, and my counsel to you? You
19 should do so promptly.

20 Q Did the Attorney General express any
21 concern about the delay between the time the note was
22 first found and the notification to law enforcement

1 was made?

2 A She may have. I don't specifically recall
3 that, but she may have.

4 Q Did Mr. Heymann?

5 A I don't specifically recall that he did,
6 Mr. Chertoff, but again, he may have. The Attorney
7 General's counsel was saying I'm not the proper
8 person to deliver this information to. You need to
9 give it to the proper authorities in a timely manner.

10 Q Putting aside what they specifically said,
11 was it your impression on Tuesday night, July 27th,
12 that the Attorney General and deputy Attorney General
13 were unhappy about the delay and notification of the
14 writing?

15 A It was my impression -- it took me somewhat
16 by surprise because I thought we were giving the
17 scraps of paper to the proper authorities in the
18 Justice Department and the Attorney General, and it
19 surprised me that that appeared not to be the case.
20 It was my impression that the Attorney General was
21 not happy with the fact that she was in a meeting and
22 this information was being given to her as opposed to

1 what she believed to be the proper authorities.
2 That's how I remember her emphasis, as well as doing
3 it in a timely manner. But that's how I remember her
4 reaction to Mr. Nussbaum's providing or attempting to
5 provide her with the scraps of paper.

6 (Pause.)

7 BY MR. CHERTOFF:

8 Q Still directing your attention to the week
9 of the 26th and the latter part of the week, did
10 Mr. Gergen tell you that he had had a conversation
11 with Mr. Heymann in which Mr. Heymann complained
12 about interference with the interviewing process?

13 A I don't recall Mr. Gergen relating that to
14 me.

15 Q Did Mr. Gergen tell you Mr. Heymann had
16 complained to him in general about the way in which
17 the White House was dealing with the law enforcement
18 authorities?

19 A No. I recall Mr. Gergen expressing or
20 relating information about Mr. Collier's concern. I
21 don't remember him relating Mr. Heymann's concern.

22 Q Why was Mr. Gergen dealing with Mr. Collier

1 on this issue?

2 A Mr. Gergen was counselor to the President
3 and had a broad range of responsibilities and
4 activities, and he could have had a conversation with
5 a number of people in the cabinet or other people.
6 That did not strike me as unusual.

7 Q But at this point in time, Mr. Gergen was
8 not the person within the White House who had
9 responsibility for dealing with the whole issue of
10 Mr. Foster's death; correct?

11 A No. The White House counsel's office had
12 that responsibility. Mr. Gergen had been involved in
13 the communication -- or dealing with the press
14 aspect.

15 Q Was he involved at this point -- which is
16 to say the latter part of the week of the 26th --
17 because there was concern about negative press
18 reaction, negative public reaction surrounding the
19 handling of the investigation?

20 A I don't know that I would quite phrase it
21 as your question did. There were a number of matters
22 that had to be dealt with from a press standpoint

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1 which Mr. Gergen would have been involved in, a
2 number of matters regarding Mr. Foster's suicide.

3 Q In your conversation with Mr. Nussbaum that
4 week where you indicated that things needed to
5 proceed -- I'm summarizing, I'm not purporting to be
6 literal -- but things needed to proceed in a little
7 bit more of an orderly fashion, was Mr. -- were you,
8 in effect, relieving Mr. Nussbaum of his exclusive
9 authority over this matter?

10 A No. Quite the contrary, Mr. Chertoff. I
11 was clear and firm with Bernie that I thought the
12 right course here was to be responsive and
13 cooperative, but at the same time I respected his
14 responsibilities to achieve a balance and order in
15 the process. And my discussion was very much like I
16 would have with a corporate attorney representing a
17 matter I was involved in in that way. But that in no
18 way would relieve him of the responsibility.

19 Q Were you critical of the way he carried out
20 his responsibilities?

21 A No, I did not express a criticism. I was
22 firm and clear on how I felt was the right way to

1 proceed in this matter, and he seemed to concur with
2 that. But I also respected the views he had in terms
3 of, again, the even-handedness and balance. Those
4 are my words.

5 Q Was this the first occasion during the
6 whole matter relating to Mr. Foster's death and the
7 ensuing investigation in which you had a conversation
8 with Mr. Nussbaum in which you asked him to conduct
9 himself in a certain way?

10 A Yes, I think that's right. I expected
11 senior officials in the White House to be
12 professional in their activities, and I think you
13 have that -- that's the right way to view responsible
14 people in any organization, whether it be the White
15 House or otherwise.

16 Q And up until that conversation, you
17 essentially maintained a hands-off attitude with
18 respect to Mr. Nussbaum's carrying out of his
19 responsibilities in the Foster matter?

20 A Hands off in terms of the details and the
21 procedures, yes; that these were legal matters,
22 essentially, matters that seemed to me should be in

1 the White House counsel's office. And Mr. Nussbaum
2 was responsible for that office and a person of
3 experience and accomplishment, and that is where
4 those types of matters should be handled.

5 MR. CHERTOFF: I've got nothing further.
6 Thank you.

7 MR. BEN-VENISTE: Why don't we take a
8 couple minutes.

9 (Recess.)

10 EXAMINATION

11 BY MR. BEN-VENISTE:

12 Q Mr. McLarty, my name is Richard
13 Ben-Veniste, and I'm counsel to the Minority members
14 of the Special Committee. I have only a few
15 questions to ask you.

16 With respect to the issue of the security
17 of Mr. Foster's office following the notification of
18 his suicide, I'd like to ask you whether you were
19 aware that, in addition to the normal White House
20 security at the west wing, that there were special
21 security measures or additional security measures for
22 the office of the counsel. Did you know that on July

1 the 20th, 1993, and specifically whether the doors
2 were locked and the office alarmed?

3 A No, I don't think I was aware of any
4 additional security locks or anything of that nature
5 on the counsel's office.

6 Q Do you recall whether anyone mentioned to
7 you, either on the 20th or 21st, that the office was
8 normally locked and alarmed? That is, that it had a
9 key lock on the outside door and that there was an
10 alarm system specific to that office?

11 A I don't know that I had focused on that,
12 and I don't recall focusing on that during the time
13 period of the 20th, 21st. I think I was generally
14 aware that offices had that type of ability to be
15 locked and secured. The chief of staff's office, for
16 example, did, so it would have been probably my
17 impression, to the extent I thought about it, that
18 other offices might have a similar-type system.

19 Q Now, did you have any way of knowing
20 whether, in Mr. Gergen's conversation with Mr. Gearan
21 that you testified you overheard one side of, that
22 the discussion of the office being secured had to do

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1 with the ability to lock and alarm that office?

2 A I don't think my thoughts were that it was
3 secure and alarmed as much as it had been secured in
4 a certain manner. That was my impression from
5 Mr. Gergen's conversation with Mr. Gearan.

6 Q Let me ask you to focus with respect to the
7 meeting that you had at the White House with
8 Mrs. Foster following the time that you reviewed the
9 torn-up note. Do you recall what Mrs. Foster's
10 reaction to the finding of this note and its content
11 were?

12 A As I've already commented, her reaction was
13 a bit more composed or less emotional than I had
14 feared it might be. As I remember it, I came to that
15 meeting, and it was already in progress when I
16 entered the meeting, and I believe the note had been
17 disclosed to Mrs. Foster -- or its contents. I'm not
18 sure exactly how it was done, but her reaction was, I
19 thought, about as even as you could possibly hope for
20 under the circumstances.

21 Q Did you learn at that time or at some point
22 thereafter that Mrs. Foster related some information

1 about when she thought that note might have been
2 written and under what circumstances?

3 A No. I don't recall hearing Mrs. Foster or
4 others comment about that matter.

5 Q Let me go back to the first point at which
6 you reviewed the note personally. You testified you
7 were quite eager to do so. Upon your return from
8 Chicago, when was the first occasion that you
9 actually saw the note?

10 A Well, as I've testified, to use your words,
11 I was eager to see it. I was intent on seeing the
12 note the day before. But I can't honestly recall
13 seeing the note the next morning. I think it's
14 highly probable that I did because at some point I
15 quickly reached a conclusion this was Vince Foster's
16 handwriting and therefore he had written the note,
17 but I can't say with just absolute clarity when I saw
18 the note the next morning. I just simply do not
19 remember seeing it.

20 Q Do you recall, however, that what you saw
21 was a pieced together --

22 A Yes.

1 Q -- document?

2 A Well, I answered too quickly. Let me
3 listen to your question a little more carefully. I
4 recall visually seeing the note spread out much like
5 a jigsaw puzzle and being pieced together, to use
6 your phrase -- and I think it's a descriptive one --
7 and that's how I recall seeing the note. But it was
8 put together in a way that you had a complete page
9 and it was legible.

10 Q Did you at any point touch any piece of
11 that note?

12 A I don't recall that.

13 Q Or handle it physically?

14 A I don't recall if I touched it or handled
15 it physically.

16 Q Do you recall that it was on yellow paper?

17 A I don't remember specifically what type of
18 paper it was on. As I remember, it was one page.

19 Q Finally, let me turn your attention back to
20 the conversation that you had with Mr. Gergen
21 following his conversation with Mr. Collier. Do you
22 recall approximately when that conversation took

1 place, your conversation with Mr. Gergen?

2 A No, I'm sorry, I do not.

3 Q Was it some point in the days subsequent to
4 the discovery of Mr. Foster's body?

5 A Yes. After the suicide, yes.

6 Q In substance, did Mr. Gergen provide you
7 with Mr. Collier's view that Mr. Nussbaum had been
8 handling matters associated with the investigation in
9 an overly formalistic or legalistic way as compared
10 to a more practical approach?

11 A Those are your words, and I don't recall
12 the specific conversation, time, or place, or
13 specific words. I don't think that's an unfair
14 characterization of what I remember of my
15 conversation with David Gergen. I had the impression
16 that certain matters were not being handled in a way
17 that were completely agreeable to Mr. Collier, and
18 that could potentially create a problem.

19 Q I don't want to suggest words, and I'm not
20 attempting to quote from anyone's recollection of
21 that particular colloquy, but I'd like to get from
22 you the sense that you got as you imparted it to

1 Mr. Nussbaum and ask you whether in substance, what
2 Mr. Collier was saying, that it was a mistake to rely
3 on technical legal points rather than look at the
4 long term possible effects of failure to give the
5 impression of cooperation as well as actual
6 cooperation?

7 A Again, and I know you're not trying to use
8 your words and substitute for what I remember, and I
9 don't remember the conversation. I think the way you
10 have phrased it is a fair characterization, and I
11 think Mr. Nussbaum -- although I don't recall it
12 specifically, but -- was viewing it from a lawyer,
13 legal standpoint. I think that's a fair
14 characterization, and that created some difference of
15 views in this case with Mr. Collier and the
16 Department of Interior.

17 Q Would it be fair to say, then, as you
18 relayed to Mr. Nussbaum your assimilation of what
19 Mr. Collier had told you --

20 A Told Mr. Gergen.

21 Q What Mr. Gergen had told you about his
22 conversation with Mr. Collier, you then encouraged

1 Mr. Nussbaum to make every effort to cooperate and
2 perhaps downplay some of the legal formalities
3 involved in favor of a more practical approach to his
4 relationship with the investigators?

5 A Yes. I think, again, that's fair. I'm not
6 sure I would use the phrase "downplay" because I
7 think I respected any legal considerations that might
8 be appropriate here, and I conveyed that to Bernie,
9 but I also conveyed some of the same type of
10 sentiment that you just conveyed. Bernie, there are
11 a lot of considerations here, and let's make every
12 effort to be cooperative and have any interface or
13 any discussions move forward in a constructive way.
14 He did not resist that. He understood my point. But
15 again, I respected his viewpoint as White House
16 counsel and a lawyer with considerable experience and
17 accomplishment.

18 Q Did you get the sense that Mr. Gergen more
19 or less agreed with Mr. Collier's analysis?

20 A Yes, I did.

21 Q And when Mr. Nussbaum discussed possible
22 issues of privilege associated with the content of

1 Mr. Foster's note, was it clear to you that, despite
2 the existence of possible privileges, that it was
3 important that the note be turned over to
4 investigative authorities?

5 A Yes. It was my impression when I first
6 heard about this note being found that it eventually
7 would become public record, would appear in the
8 press, and should be given to proper authorities. I
9 was certainly not unwilling to hear other appropriate
10 matters such as legal considerations, but by the next
11 morning, those were not an issue; so I never did have
12 to deal with them in a decisional way.

13 Q How is it they were not an issue, that the
14 attorneys had satisfied themselves that this was
15 something which needed to be done despite the
16 possible technical arguments that could be made
17 against revealing the substance?

18 A That's correct, or the arguments, they did
19 not feel, were valid. We didn't go into it in that
20 kind of detail. It didn't seem to be an issue.

21 Q The bottom line was that it was no longer
22 an issue by the next morning?

1 A That's correct. And I had also seen the
2 note at some point and was determined it was Vince's
3 handwriting.

4 MR. BEN-VENISTE: I have nothing further.

5 MR. CHERTOFF: I have nothing. Thank you.

6 THE WITNESS: Thank you.

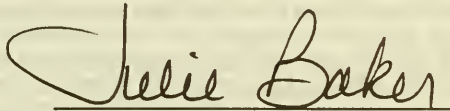
7 (Whereupon, at 11:58 a.m., the deposition
8 was concluded.)

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10 -----
11 THOMAS F. MC LARTY
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

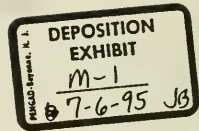
My Commission Expires

SEPTEMBER 30, 1997

LEVEL 1 - 11 OF 11 STORIES

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July 21, 1993



SECTION: NATIONAL DESK

LENGTH: 8934 words

HEADLINE: White House Briefing on the Death of Vince Foster

CONTACT: White House Press Office, 202-456-2100

DATELINE: WASHINGTON, July 21

BODY:

Following is transcript of a press briefing conducted by Chief of Staff Mack McLarty and Communications Director Mark Gearan:
The Briefing Room 3:30 P.M. EDT

MR. MCLARTY: Good afternoon. As I'm sure you can appreciate, this is one of the hardest things I've ever had to do. Like the President and myself, Vince Foster was from Hope, Arkansas, and for more than 40 years he was my friend. And because of that friendship and because of Vince's considerable accomplishments, I took understandable pride when the President asked him to join us here in Washington as Deputy White House Counsel.

For six months, he served his country with distinction in that capacity and, to be sure, the White House has lost a talented and dedicated attorney.

Many of you may not know that Vince graduated first in his law school class and scored the highest grade on the Arkansas bar exam the year he took it, and was made partner in a major law firm in just two years. He chaired the Arkansas Advisory Council to the Legal Services Corporation, and he just recently received the Arkansas Bar Foundation Award and the Arkansas Bar Association's 1993 Outstanding Lawyer Award.

But I'm here today really to talk more as Vince's friend than his White House Chief of Staff. When we received the tragic news last night the President and I joined his family and his friends at the Foster home. And as the President related to the White House staff earlier today, we all shared some warm and some wonderful memories, as well as shed some very real tears.

All of us who have the privilege and honor of calling the White House our place of employment, on either side of this podium, are used to, in large measure, dealing with issues and problems that are tangible, that are knowable, at least in large part, and most times subject to reason. And that is one aspect that makes this tragedy so difficult to deal with. For try as we might, all of our reason, all of our rationality, all of our logic can never answer the questions raised by such a death.

We really can never fully know a person's private pain and what might lead them in their thought process, even a person we have known all of our lives. But what we can do is offer our prayers and comfort to Lisa, Vince's wife of 25 years; their wonderful children; his mother Alice Mae, whom I spoke with this morning in Hope; and to his sisters, Sheila Anthony here in Washington and Sharon Bowman of Little Rock.

As a measure of our affection for them, there has been established

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a Vincent W. Foster Scholarship Fund with the Arkansas Bar Foundation. Funeral services will be held in Little Rock this Friday. The President and First Lady, as well as Donna and I will, of course, attend. Donna is at the Foster residence this afternoon, and I plan to join her and the Foster family later today.

It is one of life's ironies that just yesterday, when speaking of what John F. Kennedy had meant to him, the President said -- and I quote -- "The only way to ever honor any memory of someone gone is to do something today which reinforces the validity of that memory in our hearts." And so we will reinforce the validity of our friend's life, even as we mourn the circumstances of his death.

The work which he was devoted here at the White House will go on, and Vince Foster's spirit will live on in the hearts of those of us who loved him.

Thank you very much. I would now like to ask Mark Gearan to respond to any questions that you may have. Thank you.

Q Mack, did you know of any personal reason why he might have done this?

MR. GEARAN: Thank you. Let me provide you some background information, if I might, and walk through some things and then we'd be happy to take some questions.

In terms of the chronology for the White House notification, the Park Service police made the initial contact to the White House security and administrative officers about the report of a body being found. The Secret Service and the Park Service respectively notified the administrative and security officers of the White House. That set into motion calls to the Chief of Staff. We were here for the Larry King Live show in the Residence.

Soon after the show began, we were pulled from the staff room where the Chief of Staff Mack McLarty was informed of this --that

it was an unconfirmed report. In the intervening 50 or so minutes, efforts were made to both confirm the report and to make preliminary calls to individuals that needed to be contacted. Mack McLarty was with us in the Residence and coordinated the activity.

Just about five minutes before 10:00 p.m., before the Larry King Show concluded, we had the confirmation that indeed Vince had been confirmed as deceased. And the President concluded the show, went up to the Residence with Mack; at which point Mack informed the President of Vince's death. Following the indication -- following that report, then the President visited the Foster family with Mack and with several of their friends from here in Washington, senior staff members and folks from Little Rock that went to be near the Foster family at that time.

Secondly, let me tell you a bit about Vince's day-to-day responsibilities here at the White House. He's the Deputy Counsel to Bernie Nussbaum, and as such, assisted Bernie in managing all of the day-to-day activities in the White House Counsel's Office. In a staff meeting that the President had at noon today in the Old Executive Building, Bernie spoke very movingly of what they tried

to do in the White House Counsel's Office, and that is to establish a law firm. They view their work as partners, senior partners in the firm in putting together the law firm there. He advised the President in the selection of judicial nominees, was a key advisor to the Health Care Task Force, and provided day-to-day management assistance to Bernie overall in

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the Counsel's Office.

Yesterday, Vince attended Judge Freeh's announcement ceremony, returned to his office and did some work in his office. Around noon, he stopped by and visited with Bernie in Bernie's office, which is adjacent to his, ate lunch at his desk. And soon thereafter --

Q Had lunch at Bernie's desk?

MR. GEARAN: Ate lunch at his own desk. Soon thereafter, left the office and said he would be back. Mack has gone through some of Vince's bio that I think we've provided to you as well, so we'll let it stand at that.

Let me say a bit about the investigation, where we're at at this point. At the request of the White House Counsel's Office, the investigation will be coordinated by the Department of Justice and the Office of the Attorney General and her deputy, Phil Heymann. And that's where we would refer you to any questions. We'll be providing scheduling information and details of the funeral services set for 11:00 a.m. on Friday at St. Andrews Catholic Cathedral in Little Rock. And burial will be later in Hope, Arkansas.

I'd be happy to take any questions.

Q Is there any doubt -- I mean, the Justice Department investigation -- is there any doubt as to the apparent suicide?

MR. GEARAN: I'm sorry. As to the --

Q You say an investigation is underway.

MR. GEARAN: No, it's standard operating procedure, I think, that following a death of this nature that there is an investigation, and that's being coordinated by the Attorney General.

Q Do you know anything about the weapon that was used? To whom it was registered or any of those details?

MR. GEARAN: I don't, but I think it's general procedure that there's research on that by the appropriate agency. And again, Justice can provide you the status of that to determine --

Q Did the Secret Service have a role in the investigation?

MR. GEARAN: It's being coordinated by the Department of Justice. The Park Police, because that was the -- was where Vince's body was found was -- is also involved in the --

Q Was it unusual for him to be out of the office all afternoon? What was going on yesterday that -- did he say anything to anyone before he left the White House?

MR. GEARAN: He did not. He said he would be back. A different points during the day Bernie said, is he back yet? But it was not atypical. They did have meetings or availability, but certainly there was --

Q There was no concern about his welfare?

MR. GEARAN: No.

Q Mark, had he ever given anyone any indication that he needed help or was in a difficult psychological condition?

MR. GEARAN: No. He never said anything to indicate that anything was out of the ordinary to his colleagues.

Q How did he go when he left? Did he have his personal car? Was it a White House car?

MR. GEARAN: His personal car.

Q And no one tried to page him or no attempt to reach him?

MR. GEARAN: No.

Q What time did he leave?

**DEPOSITION OF CYNTHIA M. MONACO
IN RE: S. RES. 120**

THURSDAY, JULY 6, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CYNTHIA M. MONACO, called for examination pursuant to notice of deposition, at 1:40 p.m. in Room 640-A of the Hart Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.
Majority Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

STEPHEN L. BRAGA, Esq.
BARRY J. POLLACK, Esq.
2555 M Street, NW
Washington, DC 20037
On behalf of the Deponent.

APPEARANCES

PAUL J. FISHMAN, Esq.
CHARLES J. SGRO, Esq.
U.S. Department of Justice
Office of the Attorney General
Tenth Street & Constitution Avenue, NW
Washington, DC 20530

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P R O C E E D I N G S

1
2 Whereupon,

3 CYNTHIA MONACO

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. CHERTOFF:

8 Q Would you spell your name for the
9 reporter.

10 A C-y-n-t-h-i-a, M-o-n-a-c-o.

11 Q Ms. Monaco, before we proceed, I'm just
12 going to give you some preliminary information about
13 the nature of this proceeding. I'm Michael Chertoff;
14 I'm the special counsel to the Majority regarding
15 this matter. This deposition is being conducted
16 pursuant to Senate Resolution 120, which establishes
17 a Special Committee to conduct an investigation
18 involving Whitewater Development Corporation and
19 certain other related matters.

20 Section 1.B.1 of that resolution authorizes
21 an investigation and public hearings into "whether
22 improper conduct occurred regarding the way in which

1 White House officials handled documents in the office
2 of White House Deputy Counsel Vincent Foster
3 following his death." And that's going to be the
4 focus of today's deposition.

5 May I ask how it is that you learned that
6 your attendance at this deposition was requested?

7 A Paul Fishman contacted me.

8 Q And at that time were you asked to collect
9 or produce any documents in connection with this
10 deposition?

11 A No, I wasn't.

12 Q On prior occasions where there have been
13 proceedings or investigations regarding the handling
14 of the documents in Mr. Foster's office, have you had
15 occasion to collect personal notes or other documents
16 and produce them to the Department of Justice?

17 A Yes.

18 Q Is there anything that you have not
19 produced that would, up to this point in time that
20 would have been relevant to those productions?

21 A Not that I'm aware of.

22 Q Now, I should tell you this is a deposition

1 in anticipation of a public hearing that's now
2 expected to begin on July 18th and run for several
3 weeks. I can't tell you at this point whether you're
4 going to be testifying or not. What's going to be
5 happening in this deposition is I'm going to ask you
6 a series of questions, and you're obligated to
7 testify under oath. If you don't understand a
8 question, please let me know, and I'll rephrase the
9 question. Similarly, please don't speculate or guess
10 unless I ask you to speculate or guess.

11 The stenographer is going to prepare an
12 accurate record of the questions and answers. That
13 record or transcript is going to be treated as
14 committee confidential up until the time that the
15 hearings begin. Once the hearings begin, some or all
16 of the transcript may become public. Four days in
17 advance of the hearings, which I guess would make it
18 July 14th, a copy of this will be available at the
19 Senate for you and your counsel to review to make any
20 corrections. But I should advise you if you make
21 corrections other than ministerial or clerical
22 corrections, those corrections themselves could

1 become the subject of a future deposition.

2 Also, if you are asked to testify at the
3 hearing, you will get a copy of the deposition
4 yourself to share with your lawyer provided that you
5 and your lawyer agree that you'll maintain the
6 confidentiality of the deposition and not disseminate
7 its contents orally or in writing to anybody but
8 yourself and the attorneys working with you.

9 May I ask which of your counsel here today
10 will be speaking?

11 MR. BRAGA: It would be me, Stephen Braga.

12 BY MR. CHERTOFF:

13 Q There may be objections during this
14 proceeding, objections as to form. Let us wait to
15 get those on the record before you answer. There may
16 also be objections that are more substantive and
17 could involve an instruction to you not to answer.
18 I'm going to request that you let us wrestle with
19 those here before you answer. If you're instructed
20 not to answer, you don't answer. If you're not
21 instructed, you should answer. If we're at an
22 impasse, we may either take it up -- either proceed

1 beyond it or take it up with the committee chairman
2 now or in the future.

3 Is there anything about what I've told you
4 that you don't understand?

5 A No, I think I understand it completely.

6
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8
9

10 Q Where are you now employed?

11 A Ropes & Gray.

12 Q In what capacity?

13 A An associate.

14 Q When did you graduate from law school?

15 A 1991.

16 Q Where did you go to law school?

17 A Harvard Law School.

18 Q Where did you go to college?

19 A Harvard.

20 Q What year did you graduate from college?

21 A 1987.

22 Q What did you do in the year between college

1 and law school when you took a year off?

2 A Oh. I worked for MTV Networks in New York.

3 Q Now, after you graduated from Harvard Law
4 School in 1991, what did you do?

5 A I clerked for Judge Altamori on the Second
6 Circuit for a year and a half.

7 Q And that took you until when?

8 A March of '93, I believe.

9 Q And what did you then do?

10 A I had about a month off, and then I came to
11 work at the Department of Justice.

12 Q And for whom did you work?

13 A Deputy Attorney General, who at the time
14 was Phil Heymann.

15 Q How did you come to get that job?

16 A I had been Phil Heymann's research
17 assistant at Harvard Law School.

18 Q Did he reach out for you to come, or did
19 you make an application to him?

20 A I never made a formal application. We were
21 working together on some issues regarding South
22 Africa and the Goldstone Commission at the time, and

10

1 I was up in Cambridge, and I think the subject came
2 up. But I was definitely more than willing to come.

3 Q What was your title when you joined the
4 Department of Justice in March of 1993?

5 A Special assistant to the deputy Attorney
6 General.

7 Q How long did you work at the department?

8 A At the department in toto? From May of
9 1993 until March of this year.

10 Q 1995?

11 A Uh-huh.

12 Q Did your title or position change during
13 the course of that work at the Department of Justice?

14 A Yes. I went over to the Eastern District
15 of Virginia and served as a special assistant United
16 States Attorney in September of '94.

17 Q And did you do that until you left the
18 department?

19 A Yes.

20 Q Before you became a special assistant in
21 the Eastern District of Virginia, were you special
22 assistant to the deputy Attorney General continuously

1 from May '93 until September '94?

2 A Yes.

3 Q When did Mr. Heymann leave his position as
4 deputy?

5 A February of '94.

6 Q And who was the acting deputy after you
7 left?

8 A Jill Harris.

9 Q Did you continue to serve as her special
10 assistant?

11 A Yes.

12 Q When Ms. Gorelick took over, you became her
13 special assistant?

14 A Yes.

15 Q Since you've had notice of this deposition,
16 have you spoken to anybody but your lawyers -- your
17 personal lawyers -- and members of your immediate
18 family concerning your testimony here?

19 MR. BRAGA: The substance of her
20 testimony?

21 MR. CHERTOFF: Yes.

22 THE WITNESS: Regarding the substance of my

12

1 testimony, I spoke to a number of people regarding
2 the hiring of an attorney. In that context, I told
3 them what I thought I was going to be questioned
4 regarding, but as for any details what I thought I
5 would be asked or what I would say, the only people
6 I've spoken to have been my attorneys.

7 BY MR. CHERTOFF:

8 Q Without telling me what you've
9 substantively testified about, have you previously
10 been interviewed by law enforcement officials or
11 testified in any investigative proceedings regarding
12 the handling of the Foster documents?

13 A I have spoken with FBI agents who were
14 assigned to Mr. Fiske's investigation, and I've
15 spoken with an attorney and an FBI agent who are
16 assigned to Mr. Starr's investigation.

17 Q Other than conversations you've had with
18 your own attorneys here and with your immediate
19 family, have you discussed the substance of those
20 interviews or discussions with anybody else?

21 A The only reference I can recall is that at
22 some point the department asked us to produce

1 documents, and I'd already -- if I am recalling the
2 sequence of events correctly, I had already given a
3 copy of documents to Mr. Fiske's investigators. I
4 had volunteered them. So when I was gathering the
5 documents, I was explaining that I had given this to
6 them, and I believe they may have the original and a
7 copy.

8 Q Who did you deal with at the Department of
9 Justice?

10 A David Margolis. Phil Heymann would have
11 been gone by then.

12 Q Do you remember when that was?

13 A No, I can't recall. It was shortly after a
14 request came in. I'm not sure if it was from this
15 committee or from a separate committee. But it was
16 during the time frame in which we started gathering
17 documents from the deputy's office, and I was
18 explaining what documents I turned over to Fiske.

19 Q Let me direct your attention to July of
20 1993, in particular, July 20th. When did you first
21 learn -- actually, let me withdraw the question.

22 Were you present at the White House on July

1 20th for the swearing in of Judge Freeh?

2 A No, I was not.

3 MR. BRAGA: Be sure to wait until Mike
4 finishes his question or the court reporter might
5 assassinate you if you don't.

6 THE WITNESS: Excuse me. I will wait.

7 BY MR. CHERTOFF:

8 Q When did you first learn that Vincent
9 Foster had his body discovered?

10 A It was in the newspaper the next morning.
11 And I think it was on NPR since I normally listen to
12 NPR. That's probably where I first learned it.

13 Q That would be Wednesday, July 21st?

14 A I think that's correct.

15 Q On July 20th, which we've established
16 otherwise was the day his body was discovered, did
17 you have any contact at all with Vincent Foster or
18 his office or anything to do with Vincent Foster?

19 A No.

20 Q When you came -- did you come to work at
21 the department on the 21st?

22 A Yes.

1 Q When was the first time you had any
2 discussion with someone in the Department of Justice
3 concerning Mr. Foster's death?

4 A Oh, I can't recall. Everyone was talking
5 about the fact that Vincent Foster had been found
6 dead.

7 Q Did there come a time when you had
8 conversation with anybody in the deputy's office
9 about Mr. Foster's body being found?

10 A Yes. I mean, there were a number of
11 conversations.

12 Q At this time on July 20th, can you tell us
13 who were the people that would be considered to be
14 within the deputy's office?

15 A On July 20th?

16 Q 1993.

17 A The Department was not fully staffed in the
18 political offices, so the deputy's office was
19 short-staffed. I believe the people who were
20 assigned to the office at that point were David
21 Margolis as associate deputy Attorney General; Rod
22 Rosenstein from the criminal division -- and I

1 believe his title was special counsel; I'm not
2 certain if it was established at that point. Roger
3 Adams, who was also a counsel or special counsel;
4 Gary Katzmman would have joined the department in
5 that office in this particular time frame on detail
6 from the Boston U.S. Attorney's office.

7 I was the only special assistant. Shel
8 Bilchik, I believe, had joined the office, and he was
9 handling -- at that point, he was consumed with
10 personnel matters, and I'm not certain if Chip Sgro,
11 who is at the end of the table, had joined the
12 Department's deputy office at that point.

13 Q Did there come a point on the 21st where
14 you learned that someone in the deputy's office had
15 been selected to play a role in the investigation or
16 the circumstances surrounding Mr. Foster's death?

17 A Yes.

18 Q How did you learn that?

19 A I don't recall if Phil Heymann himself told
20 me or someone else told me, but I learned from one of
21 those people that we would be sending attorneys over.

22 Q What were you told about the reason that

1 that was going to happen?

2 A I was told that they were going over to
3 assist in a search of Mr. Foster's office.

4 Q Was this the first you had learned about
5 any investigative activity relating to Mr. Foster's
6 death?

7 A That would have been the first time, to the
8 best of my knowledge.

9 Q And at that point, whom did you understand
10 to be the police agency that was going to be doing
11 the investigating?

12 A I'm not certain that I ever knew what
13 police agency was going to be entering the office and
14 looking at documents. I think I learned that later.
15 My understanding from how his body had been found and
16 the fact that it had been found on federal park land
17 was that the Park Police had an open investigation.
18 That was my understanding.

19 Q Was it your understanding on the 21st that
20 the FBI was going to be involved in the investigation
21 into Mr. Foster's office?

22 A I'm not certain if I knew that on the 21st.

1 Q And still focusing your attention on the
2 21st, what was your understanding about what needed
3 to be done or what the department attorneys intended
4 to do regarding Mr. Foster's office?

5 A It was my understanding that they were
6 going to look through papers and documents in his
7 office to see if there was anything that might be
8 connected in any way with his death.

9 Q Where did you gain that understanding from?

10 A Discussions with attorneys in the deputy
11 Attorney General's office.

12 Q I understand you can't tell us specifically
13 whom, but can you give us the universe of people in
14 that office with whom these discussions would have
15 been?

16 MR. BRAGA: These, again, are discussions
17 on the 21st?

18 MR. CHERTOFF: Right.

19 THE WITNESS: The only people in the
20 deputy's office who would have been involved in Vince
21 Foster's -- the search of his office or anything like
22 that would have been Phil Heymann, the deputy

1 Attorney General, David Margolis, Roger Adams, Rod
2 Rosenstein, myself and secretaries. Support staff to
3 the extent that they needed to inform the deputy of
4 anything.

5 BY MR. CHERTOFF:

6 Q To the extent you gained an understanding
7 of what was going to happen on July 21st, that
8 understanding was gained from discussions with and
9 among Mr. Heymann, Mr. Adams, Mr. Rosenstein and
10 Mr. Margolis; correct?

11 A That's correct.

12 Q What do you recall concerning the
13 discussions, again on the 21st, about exactly what --
14 let me break it down, actually. Did there come a
15 point on the 21st where Mr. Adams and Mr. Margolis
16 actually went to the White House?

17 A I believe that late in the day on the 21st
18 they actually went over to the White House.

19 Q I want to focus your attention on the
20 period before they went over to the White House on
21 the 21st of July. During that period, from
22 discussions with the attorneys you've previously

20

1 identified, what was your understanding of what the
2 plan was that the attorneys were going to undertake
3 at the White House?

4 A Before they went over there?

5 Q Yes.

6 A I'm not certain I was aware of any plan.
7 All I knew is they were going over there because
8 someone from the department needed to look through
9 documents.

10 Q Did you know who made the decision or who
11 made the request to have someone from the department
12 present?

13 A No.

14 Q Again focusing your attention on the 21st
15 but before the period of time when they went over,
16 did you have discussion concerning who -- were you
17 present for discussion concerning who the particular
18 attorneys would be who would be sent over to the
19 White House?

20 A I don't think I was present for any
21 discussion at which the question of who would be sent
22 over was discussed.

1 Q Did you learn that Roger Adams was
2 initially selected to go over?

3 A Yes.

4 Q Who made that selection?

5 A I'm not certain if I ever knew who made
6 that selection. I assumed that it was the deputy
7 Attorney General.

8 Q Did Mr. Adams raise a question or a
9 possible issue about whether he ought to be the
10 person who ought to go over?

11 A Yes, he did.

12 Q Who did he raise it with?

13 A The deputy Attorney General.

14 Q What was that?

15 A He raised the possibility that there was an
16 appearance of a conflict because he had previously
17 been detailed to the White House during the
18 transition phase to work on ethics issues. Roger
19 Adams was an expert on ethics issues.

20 Q As a consequence of Mr. Adams having raised
21 that, did Mr. Heymann consult with somebody?

22 A I know at some point Mr. Heymann raised it

1 with the Attorney General.

2 Q Were you present for that discussion?

3 A No.

4 Q Were you present for the discussion between
5 Mr. Adams and Mr. Heymann where he initially raised
6 the appearance issue?

7 A No.

8 Q Did you learn about it afterwards from
9 Mr. Heymann?

10 A Yes.

11 Q Did Mr. Heymann tell you about that that
12 day, or did he tell you about it on some later
13 occasion?

14 A I believe it was that day. And the reason
15 it came up in the context of -- I had been trying to
16 reach him at the Attorney General's office's request,
17 and I didn't know what it was about. And he later
18 told me that it had to do with Roger Adams.

19 Q After the conversation with the Attorney
20 General, did Mr. Heymann decide that, as an extra
21 precaution, he would send Mr. Margolis along with
22 Mr. Adams to the White House?

1 A I'm not certain when it was determined that
2 David Margolis would go over. If that had been
3 determined before, you know, shortly thereafter -- I
4 believe Roger Adams was the initial pick. I'm not
5 certain on what I base that, but pretty shortly
6 thereafter, it was decided they would both go over.

7 Q Were you present at any point in time
8 before they went over when Mr. Heymann discussed with
9 Mr. Margolis and Mr. Adams what he wanted them to do?

10 A No, I don't believe so.

11 Q Did Mr. Heymann tell you about it
12 afterwards?

13 A Are we talking about on this particular
14 date?

15 Q At a later point in time.

16 A At a later point in time, I learned that
17 David and Roger were being sent over with
18 instructions that they were to look at documents and
19 determine if there was any relevance to Mr. Foster's
20 death.

21 Q When did you eventually learn that?

22 A Well, that evening, if I recall correctly,

1 David returned from the White House and so did Roger,
2 and they explained that it was too late in the day to
3 start looking through documents but that the next day
4 they would go back and they would look through
5 documents. And the way it was presented was this was
6 sort of an agreed-upon course of action between the
7 deputy Attorney General and the White House counsel's
8 office.

9 Q And this was explained to Mr. Heymann in
10 your presence?

11 A I can't recall if Mr. Heymann was present
12 for that.

13 Q It was explained to you. Was it explained
14 to you -- you have to answer yes. You're nodding.

15 A Yes.

16 Q Was it explained to you so you could tell
17 Mr. Heymann?

18 A Not that I recall. As I recall, I asked
19 how things went at the White House, and they said oh,
20 well, we didn't get a chance to search. We're going
21 to do that tomorrow. It was too late in the day.

22 Q Did you on July 21st keep any notes or

1 diary entries regarding what had transpired regarding
2 the Foster investigation or the contact between
3 Mr. Margolis and Mr. Adams in the White House on that
4 day?

5 MR. BRAGA: Did she keep the notes that
6 day?

7 MR. CHERTOFF: Yes.

8 THE WITNESS: I know that I dictated a
9 number of personal notes, but I can't recall if they
10 were specifically on the 21st or a few days later.

11 BY MR. CHERTOFF:

12 Q When you say you "dictated," you mean you
13 dictated into a machine?

14 A Into a dictation machine, most likely on
15 the way home from work. That was my normal course of
16 action.

17 Q Did you also handwrite notes?

18 A Not on that day.

19 Q You hand-wrote notes later, on some
20 subsequent occasion?

21 A Are these the notes to which you're
22 referring?

1 Q I'm about to show them to you, but I want
2 to get an understanding of whether you did do some
3 notes at some point in time.

4 A There were some handwritten notes that I
5 wrote as a result of a meeting a couple days before
6 Phil Heymann left the deputy Attorney General's
7 office.

8 Q Let me do this: I'm going to show you what
9 have been marked as Bates numbers F166, 167, 168 and
10 169. Ignore the yellow lines. I want to ask you
11 whether this is a portion of the document that was
12 typed from your dictation on or around the various
13 dates in question.

14 A That's what this appears to be.

15 Q Was it your regular practice during this
16 period of time to dictate at the end of every day
17 some kind of -- I hesitate to use the word diary, but
18 some type of record of what the highlight of the
19 day's events were?

20 A Not every day. It was my practice on the
21 way home from work, which was very often at 11:00 at
22 night, to dictate whatever memos I needed to dictate

1 on one dictation device and if I had some personal
2 notes, I would dictate them on another device. And
3 these are notes I would have dictated on my own
4 little dictation machine.

5 Q What was the reason you were in the
6 practice from time to time of dictating personal
7 notes on the day's events?

8 A Well, during this period of time, I was
9 attempting to take personal notes for a number of
10 reasons. First of all, there was no time to do that
11 during the day. I rarely ever had a chance to write
12 anything down, even a to-do list, so I would dictate
13 on my machine to-do lists -- anything, even grocery
14 lists sometimes.

15 But I was keeping these personal notes for
16 sort of a number of reasons. I thought at some point
17 I'd want to replay them and I might at some point use
18 them as a journal entry, but I never did; I never
19 kept a journal.

20 But I also thought that it would be
21 significant in the event that we were asked to
22 produce a chronology of events. And we had done that

1 previously; the deputy Attorney General had asked for
2 a chronology of events to be created. We recognized
3 that there was significance to some of these events,
4 and we recognized -- and the deputy Attorney General
5 always said two months from now you're not going to
6 remember what happened on any given day, and I think
7 that was all I was thinking.

8 Also, I guess a third reason is I would
9 replay these tapes, and it would remind me about
10 memos that I would have to write, sometimes
11 memorializing meetings that happened during the day
12 that I had not specifically been asked to write, but
13 that I might go back the next day and ask the deputy
14 Attorney General if he wanted me to write a memo on.

15 Q Did Mr. Heymann encourage you to keep some
16 type of journal or record of what was going on if you
17 needed it in the event of a need to refer back to
18 past events?

19 A No, not specifically, except he was a great
20 notetaker himself. And because we were so short
21 staffed, everything was done by dictation. We had to
22 rely on a support staff to type up to-do lists and

1 everything like that.

2 Q You said on an earlier occasion you had to
3 prepare a chronology for something. In connection
4 with what was that?

5 A The resignation -- actually, the
6 termination of Mr. Sessions.

7 Q And so in connection with that, you had
8 prepared -- at that point in time, had you also been
9 in the habit of keeping a record like this, or had
10 you prepared it from memory?

11 A I don't recall. A chronology had already
12 been prepared by the office of professional
13 responsibility, and I was charged with updating it.
14 And the point was to keep track of meetings, when
15 meetings occurred with counsel, when meetings
16 occurred between Mr. Sessions and the Attorney
17 General, things like that, things that sometimes
18 happened off the schedule because they happened so
19 quickly that no one could recollect later on without
20 being able to return to a schedule. And that was
21 similar to what was happening with regard to these
22 events. In fact, when we went back and looked, very

1 often these events were scheduled.

2 Q So in preparing these particular records,
3 namely F166 through F169, you had in mind your
4 previous experience of having to prepare a chronology
5 as one of the reasons you wanted to keep an accurate
6 record; is that fair to say?

7 A I had that in mind. That was one thing
8 that was in my mind, but I considered them personal
9 notes that in all likelihood wouldn't be of any
10 particular value.

11 Q You had in mind, though, the importance of
12 keeping the notes accurately in case you should need
13 to refer to them in the future. Is that fair to say?

14 A I'm not certain. What do you mean by
15 keeping them "accurately"?

16 Q You had in mind that you might need to
17 refer to the notes in the future for something
18 important?

19 A It occurred to me that I would play this
20 tape a couple days later or a day later and be able
21 to mark down in my appointment book some of these
22 events. I never did that.

1 Q But the practice of keeping -- of dictating
2 this kind of a record was based in part upon your
3 understanding that it might be useful to have an
4 accurate record of things that had occurred should
5 you need to be able to discuss them or relate them at
6 some future time?

7 A The difficulty that I'm having with the
8 question is I dictated these things late at night,
9 and I don't know -- I was dictating what I believe to
10 be accurate at the time, but I certainly didn't think
11 I was memorializing something for anyone to read
12 after that.

13 Q I understand that, but the point I'm trying
14 to get at is you understood that there might be some
15 official need at some point to refer back to these
16 records to ascertain something that had occurred in
17 the past; right? That you might have to look at them
18 yourself to ascertain something?

19 A I understood that I might have to listen to
20 them, listen to the tape. It was much later that I
21 recognized that there might be some significance and
22 that I should type them up so I would have the

1 document, yes.

2 Q So this document, F1636 to 169, was
3 actually typed some period of time -- some
4 significant period of time after the tape was made?

5 A Much later. It would have been -- the best
6 I can determine when I typed this up would be after
7 Mr. Fiske was appointed and before Phil Heymann
8 stepped down.

9 Q Where did you keep the tape in the interim?

10 A Probably had it at home with my other tapes
11 that fit in my personal dictation machine. I only
12 had a couple of them. I normally recycle them, but
13 this one I set aside.

14 Q Why did you set it aside?

15 A I marked it July '93 and I thought there
16 might be something on it that could be of
17 significance.

18 Q In connection with the Foster matter?

19 A Yes.

20 Q When did you come to that conclusion, that
21 there might be something significant and you should
22 set it aside?

1 A Not too long after the events. When I was
2 making these notations, I recognized that at some
3 point I might be called upon to put together some
4 kind of chronology.

5 Q Now, let me direct your attention to F154
6 through 159 -- ignore the yellow lining -- and ask
7 you if you recognize these handwritten notes.

8 A Yes, I do.

9 Q And what's that?

10 A These are my notes of a meeting which took
11 place several days before Mr. Heymann left the
12 Department of Justice and after he had resigned from
13 the Department of Justice.

14 Q This is in your handwriting?

15 A Yes.

16 Q The document begins with the date Tuesday,
17 July 20th and runs along, Wednesday, July 21st;
18 Thursday, July 22nd; July 26th, Monday; July 27th,
19 Tuesday; Wednesday, the 28th; Thursday 29th. These
20 dates relate to the period of time during which the
21 Foster -- during which there was the immediate
22 aftermath of Mr. Foster's death; correct?

1 A Correct.

2 Q But this document was actually prepared in
3 1994; correct?

4 A Yes.

5 Q And you say there was a particular meeting
6 which this document records?

7 A Yes.

8 Q Who was the meeting with?

9 A Deputy Attorney General Phil Heymann, David
10 Margolis, Roger Adams, Rod Rosenstein, myself and Pat
11 Binnerger.

12 Q Who is Pat Binnerger?

13 A She's the principal staff assistant to the
14 deputy Attorney General.

15 Q This meeting had occurred after Phil
16 Heymann submitted his resignation but before he left?

17 A Yes.

18 Q Who called the meeting?

19 A Deputy Attorney General did.

20 Q What was the reason he gave for having the
21 meeting?

22 A The reason had to do with all of his

1 documents being archived. When a Presidential
2 appointee leaves his position, all his documents are
3 taken and they're put in storage. And the deputy had
4 expressed some concern that Mr. Fiske might be
5 looking for some documents and that, if everything
6 had been stored, it would be very difficult to
7 retrieve them.

8 He called the meeting so that we could
9 ascertain which documents needed to be put in the
10 main file, whether they were relevant film records
11 and logs, and in making that determination, we came
12 up with this time line which we had intended to type
13 up and make more formal. These are really my notes
14 of the meeting. It's not what was expected to be a
15 final document, and that we would put this in the
16 file for the assistance of whoever would ask for it.

17 Q Did anybody else take notes at that
18 meeting?

19 A Yes, Pat Binnering did, and I believe the
20 deputy Attorney General did.

21 Q Did you see the deputy Attorney General's
22 notes?

1 A No.

2 Q I'm going to show you what have been marked
3 as F160 through F165 and ask you -- again, ignoring
4 the yellow lines -- if you recognize that to be Phil
5 Heymann's handwriting?

6 A This does look like Phil Heymann's
7 handwriting.

8 Q Have you ever seen those before?

9 A No. This is the first I've ever seen of
10 them.

11 Q From the content, can you tell whether
12 those notes were prepared during the meeting after
13 Mr. Heymann's resignation?

14 A Well, I would assume so because some of
15 these notations look very close to some of my
16 notations from that same meeting. In particular, PH
17 calls Gergen, 10:37. I think I had 10:37 on my notes
18 as well.

19 MR. BRAGA: For the record, she's pointing
20 to F165.

21 THE WITNESS: Tuesday, the 29th there's a
22 reference to the AGAC, the Attorney General's

1 advisory committee, at 5:15, and I think I had a very
2 similar notation on mine. So it would appear these
3 notes were during the same meeting, but having never
4 seen them before, I can't say that definitively.

5 BY MR. CHERTOFF:

6 Q Do you know why Pat Binniger and
7 Mr. Heymann and yourself all were taking notes in
8 this meeting as opposed to having one person
9 designated as the notetaker?

10 A Pat Binniger was supposed to be the
11 designated notetaker. She was coming up with the
12 chronology, and I was assisting her with that. She
13 was not familiar enough with any of these events to
14 accurately come up with a chronology, so I was taking
15 notes with the intention that I would assist her in
16 doing that. Unfortunately, I never did. I don't
17 know why the deputy Attorney General was taking notes
18 except it was definitely his habit of taking notes.

19 Q This chronology here, F154 to F159, is the
20 distillation of the conversation of all of you at
21 this meeting?

22 A Yes.

1 Q Do you remember the date of the meeting?

2 A I've been asked this question before. And
3 I do recall that I've tried to pinpoint it, and I
4 believe it was on or near February 11th. And I base
5 that on my recollection that Phil Heymann's last day
6 was February 14th, and it was just several days
7 before that.

8 Q Do you remember what day of the week it
9 was?

10 A No.

11 Q How long did the meeting take?

12 A I really can't say. I don't think it was a
13 very lengthy meeting, though.

14 Q This was after Mr. Fiske had been
15 appointed; correct?

16 A Yes.

17 Q And at this point in time, had Mr. Fiske
18 issued subpoenas?

19 A No.

20 Q Had anybody from the FBI or Mr. Fiske's
21 office contacted anybody in the deputy's office
22 regarding this?

1 A Not to my knowledge.

2 Q Before Mr. Fiske was appointed, was it your
3 understanding that there was any investigation -- had
4 been any earlier investigation of these events?

5 A It was my understanding that the Park
6 Police and the FBI had been investigating these
7 events.

8 Q And that had been in July and August of
9 1993?

10 A I don't know when their investigation
11 concluded, but it was my understanding that they were
12 investigating in July and August.

13 Q Was there discussion among all of you at
14 this meeting on or about February 11, 1994 about the
15 wisdom of coming up with a collective chronology?

16 MR. BRAGA: I object to the form. What do
17 you mean by "wisdom"?

18 MR. CHERTOFF: Was it a wise or smart thing
19 to do or desirable thing to do.

20 THE WITNESS: I don't recall any
21 conversation about that.

22 BY MR. CHERTOFF:

1 Q Was there discussion about what it was
2 anticipated among all of you that Mr. Fiske would be
3 looking at?

4 A Mr. Heymann stated on a number of occasions
5 that we were going to turn over all documents. He
6 was very concerned that all efforts be taken to
7 preserve all documents. In that regard, we had to
8 determine what documents there were. So we would
9 sit, note an event, and if there were a phone call, I
10 would leave the room and ask the secretaries to pull
11 the phone logs. So going through the events helped
12 in collecting all the documents that were necessary.

13 I also believe that Phil Heymann wanted to
14 keep a copy of whatever notes it was permissible for
15 him to keep a copy of, aware of the fact that he was
16 not permitted to take the originals from the office.
17 So it was just in the general context of preserving
18 documents, preserving notes and determining what
19 events happened on what day so we could look for
20 those documents that the time line sort of came to
21 being.

22 Q And this collection of documents was done

1 in advance of any request by Mr. Fiske or any other
2 investigating authority, to your knowledge?

3 A Yes. The event that was prompting this was
4 Mr. Heymann's departure.

5 Q Were there other areas of Mr. Heymann's
6 responsibility where he went through a similar
7 process of sending everybody down to collect the
8 items on a particular issue?

9 A With regard to the Waco review, I think
10 there were a number of meetings at which documents
11 had to be collected. And we had a big meeting to
12 determine whose responsibility it was for doing what,
13 and that was a massive logistical effort in and of
14 itself. And as I mentioned earlier, there was the
15 Sessions time line, which I was charged with
16 updating.

17 Q When was that? When was the Sessions time
18 line?

19 A I can't recall.

20 Q Was that at the time Mr. Heymann was
21 leaving or a year earlier?

22 A It was contemporaneous with the events of

1 Mr. Sessions's termination.

2 Q Is it fair to say at the time of
3 Mr. Heymann's departure, in the period between his
4 resignation and his departure, the only set of events
5 as to which you had a meeting like this where
6 everyone sat down to collect everything and put
7 together a time line was that relating to the Foster
8 document handling?

9 A I'm not sure I can say that was accurate
10 because I certainly was not present at all of the
11 deputy's meetings. I can say it was definitely his
12 practice to gather people together and go over lists
13 of items.

14 Q But in terms of your knowledge of what
15 occurred in the period between his resignation and
16 his departure, the only instance in which he
17 collected people together to do a time line was on
18 this matter of the Foster documents?

19 A To the best of my knowledge, this was the
20 only thing that prompted such a meeting.

21 Q At that meeting, which is, again, on or
22 around February 11, 1994, did anyone express concern

1 about whether, in the absence of this kind of
2 collection process, documents might disappear?

3 A Phil Heymann had expressed concern that if
4 something is archived, it will never be found again.
5 He had said that repeatedly. I know that Roger Adams
6 had stated that he had prepared some memoranda and
7 now we couldn't find it, so we were all sitting down
8 to try and figure out where documents were. It was a
9 matter of organizational effort because we wanted to
10 be able to turn everything over to Mr. Fiske or to
11 anyone else who asked and to be able to explain that
12 we had made efforts to look for these things before
13 the deputy Attorney General left.

14 Q On this meeting on or about February 11,
15 1994, did Mr. Heymann or anybody else present express
16 an opinion about the way the White House had handled
17 the investigation of the circumstances surrounding
18 Mr. Foster's death and the documents in his office?

19 A I wasn't aware there was an independent
20 White House investigation. Are you --

21 Q Let me rephrase it. At this meeting on or
22 about February 11th, did anybody express an opinion

1 about the way in which the White House had handled
2 the matter of Vincent Foster's death in the wake of
3 Mr. Foster's death?

4 A Certainly.

5 Q What were the opinions expressed?

6 A Well, reference was made to the fact that
7 Roger Adams and David Margolis and FBI investigators
8 were not permitted to look at the documents when
9 originally they had been informed that they would be
10 able to look at the documents.

11 Q And what opinions were expressed about
12 that?

13 A I'm not certain if any opinions in
14 particular were expressed about that. The purpose of
15 the meeting was not to sort of rehash speculation as
16 to why it was that the deal changed or why it was
17 that these documents weren't available for the
18 department's review. Not at that meeting.

19 Q Was there another meeting that you recall
20 in which opinions were expressed about the change of
21 the arrangement in terms of the review of the
22 documents by the White House?

1 A It was certainly contemporaneous with those
2 events. There was a great deal of discussion.

3 Q We'll get to that in a minute. I want to
4 make sure we're still focused on February 11, 1994.
5 At that point in time, did anyone express the view
6 that the White House activities or behavior in
7 connection with the Foster documents might be the
8 subject of criminal investigation?

9 MR. BRAGA: On February 11th?

10 MR. CHERTOFF: On or about February 11th.

11 THE WITNESS: I believe that the FBI had
12 already been called in to investigate or to conduct
13 an investigation into the handling of the note. So
14 to the extent that can be characterized as a criminal
15 investigation, that was already underway. It may
16 have been concluded. I don't know.

17 BY MR. CHERTOFF:

18 Q On or about February 11, 1994, did anyone
19 express the view at this meeting that people in the
20 White House might have been guilty of an obstruction
21 of justice?

22 A What do you mean by "obstruction of

1 justice"?

2 Q Well, you're familiar with Title XVIII and,
3 I guess section 1503, and there are a series of other
4 sections in that subchapter that are generally called
5 obstructions of justice. In the sense that that term
6 is used, did anybody express the opinion that someone
7 in the White House might have been involved with
8 obstruction of justice?

9 A I can't recall any discussion of a
10 violation of the U.S. Code occurring during that
11 particular meeting.

12 Q Were there other meetings where there were
13 discussions of possible violations of the United
14 States Code, those provisions I've referred to?

15 A I don't recall any meeting in which a
16 specific reference was made to 1503.

17 Q Putting aside whether a specific reference
18 was made to a specific section, were there meetings
19 in which there was discussion about whether someone
20 at the White House may have been involved with
21 obstruction of justice?

22 A Yes.

1 Q When did those discussions occur?

2 A One discussion -- let me back up.

3 The first time I recall the words
4 obstruction of justice being used were on the day
5 that FBI agents had first gone over at the request of
6 the deputy Attorney General and taken over an
7 investigation -- or an inquiry; at that point I don't
8 know what it was -- into the handling of the torn
9 note.

10 Q And what was the discussion?

11 A That evening -- it would be late in that
12 evening -- Nancy McFadden came into David Margolis's
13 office at which there was a meeting in progress, and
14 the deputy Attorney General was there, I was there,
15 and Rod Rosenstein was there. And there may have
16 been one other person present. I don't recall.

17 And Nancy McFadden entered the office,
18 closed the door behind her and explained that FBI
19 agents had been telling White House personnel that
20 they were investigating possible obstruction of
21 justice by White House officials in the handling of
22 the note. And she also explained that this had been

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1 the subject of a news report on the evening news.

2 Q Do you remember when this was relative to
3 the time that the Department of Justice had first
4 learned that the note had been discovered?

5 A As I recall -- this would have been several
6 days later, and this would have been after the deputy
7 Attorney General asked the FBI to take over that
8 aspect of the investigation.

9 Q What was the -- did Ms. McFadden indicate
10 why she was coming in and reporting this to the
11 deputy?

12 A She stated that Web Hubbell had asked her
13 to look into it to see what was going on. I can't
14 recall her exact words.

15 Q Did she ask the deputy Attorney General to
16 do something?

17 A I don't believe Nancy ever advocated a
18 course of action. She presented it as a problem that
19 needed to be addressed.

20 Q And she indicated this was coming from
21 Webster Hubbell?

22 A No. She didn't indicate that Web had asked

1 her to come and present a problem. She indicated a
2 number of things all in her first few breaths upon
3 entering the office.

4 Q Taking it a step at a time, try to go
5 through as clearly as you can what Ms. McFadden said
6 to yourself and Mr. Heymann and Mr. Rosenstein in the
7 office. Was Mr. Margolis there, too?

8 A Yes, it was his office.

9 Q What did she say?

10 A She entered the office and that stopped the
11 conversation. The door had been closed. She entered
12 the office and closed the door behind her and said
13 words that were something like this is out of control
14 or this is out of hand. It was out of something; I
15 recall that phrase. She said FBI agents had been
16 questioning people at the White House, and they had
17 said that they were investigating possible
18 obstruction of justice. And this had caused some
19 concern, and there was a news report on that evening
20 reporting the same thing, but now White House
21 officials were being investigated for obstruction of
22 justice. And that she had talked to Web and Web had

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1 asked her to just find out what was going on or
2 something like that.

3 Q And Web is Mr. Hubbell?

4 A Yes.

5 Q And Ms. McFadden worked for Mr. Hubbell in
6 the Department of Justice?

7 A She was a deputy associate Attorney
8 General, and it was my understanding that she served
9 as Web Hubbell's chief of staff.

10 Q Had she worked for Mr. Hubbell in Little
11 Rock?

12 A I believe she had worked with him on the
13 campaign. I don't know if their two positions
14 crossed.

15 Q That's what would generally be called a
16 political appointment as opposed to a career
17 position, her position?

18 A Actually, all of the appointments in the
19 Attorney General's office and the deputy Attorney
20 General's are political appointments. Very often
21 career people are given positions.

22 Q She was not a career person at Justice?

1 A No.

2 Q Is there anything else she said when she
3 came into the office initially?

4 A Initially? That's all that I can recall.

5 Q What was the response?

6 A Well, the conversation, whatever it had
7 been about, shifted gears. And the deputy Attorney
8 General turned to David Margolis, and I believe he
9 started going over the elements of obstruction of
10 justice and whether or not those were satisfied here
11 and whether or not -- even if they were, if the FBI
12 had enough evidence of that now. He was approaching
13 it as a legal problem, and my sense was this was sort
14 of news to him, that the FBI were announcing that
15 they had an obstruction of justice investigation
16 going.

17 Q And what was the discussion about the
18 elements of the offense that Mr. Margolis and
19 Mr. Heymann were having?

20 A The crux of the discussion was whether or
21 not someone was going to call the FBI and find out if
22 the FBI, in fact, viewed this as an obstruction of

1 justice investigation. The whole question was
2 whether or not the deputy Attorney General's office
3 would take any steps, having been given this news.
4 David Margolis did not express any view in that
5 meeting and said that he would think on it.

6 Q Did anybody else express a view in the
7 meeting?

8 A Well, at one point, Phil Heymann -- at one
9 point he was saying under these circumstances, I
10 don't think it is obstruction of justice, and Nancy
11 agreed. Nancy expressed her point of view this would
12 not constitute an obstruction of justice.

13 Q And these opinions were being based on what
14 facts?

15 A I don't know. I believe Phil Heymann's
16 opinions were based on just what he knew of the
17 handling of the note and what the FBI were doing.

18 Q What else was said in that meeting?

19 A They spoke about it for a few minutes, but
20 the deputy Attorney General had to leave. He had
21 people waiting for him outside with some very urgent
22 business, and it was my job to get him out there --

1 MR. BRAGA: That's what special assistants
2 do.

3 THE WITNESS: -- so he could not stay and
4 discuss this. And David refused to discuss this at
5 that point.

6 BY MR. CHERTOFF:

7 Q Why?

8 A He later indicated that he didn't feel
9 comfortable discussing this in front of Nancy
10 McFadden.

11 Q Why was that?

12 A He didn't state why. It was just a few
13 days later I remember Phil Heymann came in and we
14 were in David's office, which is where we always seem
15 to be at the end of the day, and David said Phil,
16 what were you thinking, or words to that effect.
17 Don't ever ask me for my honest opinion in front
18 of -- I think he said Nancy McFadden or he might have
19 said that woman or something like that.

20 Q What did you understand that to refer to?

21 A Nancy McFadden did not have criminal side
22 responsibilities. Nancy McFadden was a top assistant

1 to Web Hubbell, who was recused from this matter.

2 Q When did Mr. Hubbell recuse himself in this
3 matter?

4 A He was always recused. I don't believe he
5 ever did it formally.

6 Q He was recused from anything to do with the
7 Foster death?

8 A It was my understanding that he was to be
9 kept out of any discussions regarding these
10 circumstances, and it was my understanding that there
11 was some agreement and that the Attorney General and
12 that the deputy Attorney General did not discuss
13 these matters in front of Web Hubbell and that Web
14 was getting what information he got directly from
15 Phil Heymann.

16 Q When you say "these matters," what do you
17 mean by "these matters"?

18 A Just anything that came up in terms of
19 looking in the office or what the FBI had
20 discovered. There was a great deal of interest in
21 what the scene and the lab results would be.

22 Q Do you know when this agreement to have

1 Mr. Hubbell recused was reached?

2 A No. It was never presented to me as a
3 formal agreement. And there's one thing I would like
4 to add: I learned that Web Hubbell was upset that no
5 one had told him about the discovery of the note. He
6 apparently was late in finding out about this. If I
7 recall correctly, he found out about it over lunch
8 with Phil Heymann and possibly Irv Nathan.

9 And he had been over to the White House
10 during the period when they had the note and was sort
11 of hurt that they had taken his recusal to the extent
12 of not telling him that this note had been found. So
13 there were a lot of indications that Web Hubbell was
14 to be kept out of this, and it was understood. It
15 was never presented to me as an agreement.

16 Q And your understanding is that Web Hubbell
17 knew he was supposed to be kept out of it?

18 A It was my understanding that that was
19 certainly made clear to him -- if not earlier, at the
20 time when they explained why he hadn't been told of
21 the existence of the note.

22 Q Do you remember when that lunch was when he

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1 complained about not having been told about the
2 existence of the note?

3 A I don't know that Web complained.

4 Q When he questioned it?

5 A I heard that he was hurt. No.

6 Q Was that lunch before this meeting with
7 Nancy McFadden that you've testified about in which
8 the "obstruction of justice" words were used?

9 A Yes.

10 Q Going back now to this -- I know we're
11 jumping around a little bit, but I want to go back
12 now in the wake of the meeting in which Ms. McFadden
13 came in and talked to -- raised the issue about the
14 FBI agents using the term of obstruction of justice.
15 You've testified that within a few days there was a
16 later discussion between Mr. Margolis and Mr. Heymann
17 in which Mr. Margolis said he wouldn't speak about
18 this in front of that woman. What else was said in
19 that conversation?

20 A I don't recall anything else in particular
21 being said, except I think Phil Heymann said he may
22 not have recalled that he had asked for an opinion on

1 an investigative matter in Nancy's presence. I think
2 he was sort of taken aback by it and acknowledged
3 that David was correct.

4 Q Was this conversation that you're now
5 testifying about part of a larger conversation
6 involving the obstruction issue?

7 A No.

8 Q Let me now go back to the evening where
9 Ms. McFadden came in, and you've testified that at a
10 point in time Mr. Heymann had to leave. Did
11 Ms. McFadden remain after that period of time?

12 A I believe I left with the deputy Attorney
13 General, and I am not certain, but I believe she
14 remained. But very soon after Phil Heymann and I
15 walked out of the room, David left with Rod
16 Rosenstein. They went to take a walk, as David put
17 it.

18 Q Did you ever learn what was discussed
19 during that walk?

20 A I believe Rod told me that he and David
21 talked about whether or not it was appropriate to
22 contact the Bureau and that they had determined that

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1 it would be okay to call and find out what the status
2 was.

3 Q Was a decision made ultimately by
4 Mr. Heymann that a call like that should be placed?

5 A Mr. Heymann left it in Mr. Margolis's
6 discretion.

7 Q Did Mr. Margolis and Mr. Rosenstein call
8 the Bureau?

9 A Yes.

10 Q When?

11 A That evening.

12 Q And do you know who they called?

13 A I cannot recall whether or not it was an
14 assistant director, but it was a fairly high level
15 official who had oversight over this investigation,
16 and it was someone whom David had known for many,
17 many years.

18 MR. BRAGA: If I could clarify for a minute
19 whether it was one or both of them that called? I
20 think your question was whether "they called."

21 MR. CHERTOFF:

22 Q Was it Mr. Margolis who called?

1 A It would definitely have been David
2 Margolis who called.

3 Q You don't recall if Mr. Rosenstein was
4 involved in the call?

5 A I don't know, but my recollection was he
6 wasn't. But I don't know what I base that on.

7 Q What did this senior member of the FBI tell
8 Mr. Margolis?

9 A Actually, I recall something else that was
10 discussed before with Nancy that ties into this.
11 David had expressed his opinion -- when Phil Heymann
12 had been talking about obstruction of justice, David
13 said this might be an FBI investigative technique.
14 They like to say they're investigating the worst
15 possible thing they can come up with evidence on, and
16 people tend to comply with FBI requests for
17 interviews when they are sufficiently cowed by
18 this -- the presence of obstruction of justice.

19 And he had stated that if there was an
20 investigative technique, we should let the Bureau do
21 what it was doing. And Phil Heymann had said I'll
22 leave it up to you. At this point, I was practically

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1 dragging him out of the room. And David told me
2 later that he called the Bureau, and he spoke with
3 whoever the responsible official was and said was
4 this an investigative technique? And the Bureau
5 official said no, I have no idea why they're saying
6 obstruction of justice. And David then said well,
7 tell them to knock it off.

8 Q And do you know whether that instruction
9 was relayed?

10 A I don't know, but I'm sure it was.

11 Q Did you hear anything further on this
12 subject matter?

13 A David told me that he gave Nancy the status
14 of this, that he told Nancy about his conversation
15 with the Bureau and that the Bureau was now going to
16 instruct the agents to stop frightening people with
17 this term.

18 Q When did Mr. Margolis tell you he had told
19 Nancy?

20 A This would have been maybe one day later or
21 a couple of days later he recounted the whole series
22 of events to me.

1 Q Did he explain to you why, given the
2 recusal of Mr. Hubbell, Mr. Margolis got back to
3 Nancy McFadden on this subject?

4 MR. BRAGA: Did David explain that to her?

5 MR. CHERTOFF: Yes.

6 THE WITNESS: No, and I would like to say
7 "recusal" is rather a formal word. I'm not sure if
8 anyone used the word recusal. Web was to be kept
9 separated from these events. Web was not to have any
10 involvement in these events because there would be an
11 appearance of impropriety. He didn't explain that to
12 me, but it seemed in the way he described it to be
13 just a routine courtesy.

14 BY MR. CHERTOFF:

15 Q Did you have any other conversations with
16 Ms. McFadden concerning -- let me withdraw the
17 question.

18 Were you present for or did you participate
19 in any other conversations with Ms. McFadden
20 concerning the Foster case besides what you've
21 described?

22 A I'm certain -- it came up in many

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1 contexts. This was really the news that had consumed
2 the department. Everyone was talking about it, so
3 I'm certain it came up, but I can't recall anything
4 other than what I referenced. I believe in my notes
5 I reference some --

6 Q Let me show you F168, a portion of which,
7 frankly, has been redacted as nonresponsive, but I'm
8 going to show you the yellow paragraph and tell you
9 if that reminds you about a conversation on August
10 10th or 11th with Ms. McFadden?

11 A This does not refer to a conversation I had
12 with Nancy. This refers to a conversation -- not
13 even a conversation, but to an event that was
14 reported to me by Rod Rosenstein.

15 Q Tell me about that event.

16 A Nancy called these morning meetings. She
17 liked to call them at an early hour of the morning,
18 and the purpose of these meetings was to gather
19 representatives from each of the various offices and
20 we'd go over events. It was sort of a coordinating
21 meeting. Mostly, we went over the press clippings.

22 I tried to get other people to go to these

1 meetings in my stead mostly because we work until
2 about 11:00 at night and being back there at 8:00 or
3 8:30 in the morning for a meeting which very often
4 was canceled was not high on the priority list. On
5 this particular occasion I convinced Rod Rosenstein.

6 This was the only occasion in which I
7 convinced Rod Rosenstein to go in my place. And Rod
8 reported back to me; he said Nancy has this idea that
9 she should talk to Web about talking to Phil about
10 stopping the press coverage because there's too much
11 bad press coverage. And Nancy had discussed it with
12 Lula Rodriguez, so he comes to me saying I'm supposed
13 to do something about it. And I asked if he told
14 Nancy that was a bad idea, and he said no, you tell
15 her it's a bad idea. Well, it was a bad idea, and I
16 made that note.

17 Q Who is Lula Rodriguez?

18 A Lula was the Attorney General's assistant,
19 assistant to the Attorney General, and I think she
20 left the department right about the same time Phil
21 Heymann did because her name was dragged through
22 every Phil Heymann departure story.

1 Q What was your understanding about how Web
2 Hubbell was going to get Phil Heymann to put a lid on
3 the press?

4 A I have no idea. I mean, it was -- we were
5 definitely getting a lot of negative press, and we'd
6 get these press clippings every day. And they were
7 up to two volumes on some days. And the press was
8 starting to get very speculative on the reasons
9 behind the suicide, and it's since gotten worse on
10 the speculation. But at the time it was distracting
11 a lot of attention away from other department
12 business.

13 And I believe that Nancy believed that
14 there were other positive things that the department
15 was working on, and while the press corps attached to
16 the Department of Justice was consumed with Foster
17 and the investigation and the events surrounding
18 that, we were never going to be able to focus
19 attention on some of the good things we were doing.

20 Q When you say putting a lid on it, putting a
21 lid on it generally means stopping something from
22 coming out?

1 A Yeah, stopping responses to questions. I
2 think the idea that was conveyed to me was that Nancy
3 was suggesting that maybe we should just stop
4 granting so many interviews or stop answering so many
5 press queries. But I'm not sure that Nancy was aware
6 of the sheer volume of press inquiries and the
7 interest and just how large a number of queries she
8 was talking about.

9 Q Was part of your understanding of what
10 Ms. Nancy McFadden wanted to talk to Web about was
11 having Mr. Heymann somehow try to crack down on any
12 leaks from the FBI or the Department of Justice on
13 this subject?

14 A That wasn't my understanding.
15 (Pause.)

16 Q Now, putting to one side the event you've
17 already testified about in which Ms. McFadden came
18 into a meeting with the deputy and raised the issue
19 or raised the fact that the FBI was talking about
20 obstruction of justice, were there any other
21 discussions concerning obstruction of justice,
22 possible obstruction of justice in connection with

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1 the handling of the Foster documents?

2 A Not that I was a part of.

3 Q Let me now go back in time and go back to
4 July 21st. At the time that Mr. Adams and
5 Mr. Margolis left to go to the White House, you did
6 not have a clear understanding of what their role was
7 going to be over there; is that correct?

8 MR. BRAGA: She personally?

9 MR. CHERTOFF: Yes.

10 THE WITNESS: I'm not certain what
11 information I had.

12 BY MR. CHERTOFF:

13 Q When they came back, they spoke to you
14 about their visit at the White House; correct?

15 A David did. I don't recall whether Roger
16 did.

17 Q What did David Margolis tell you?

18 A He had told me that it was -- I had asked
19 him whether or not they had entered the office or how
20 things went. And he said they were going to go back
21 over in the morning, that it was too late in the day
22 to get started, and so the office had been sealed, I

1 think.

2 Q It had been sealed as of the time they were
3 there?

4 A I don't recall whether he gave me those
5 specifics.

6 Q Did he tell you that they had an
7 arrangement or an agreement with Mr. Nussbaum
8 concerning the way in which the documents in the
9 office would be handled?

10 A He didn't reference it. He said that he
11 was going to go back the next morning and that they
12 would look at the documents.

13 Q And when you say they would look at the
14 documents, who do you mean by "they"?

15 A I thought he was referring to David and
16 Roger. I was unaware at that time how many law
17 enforcement agents would be involved.

18 Q Your understanding is that at least David
19 and Roger -- David Margolis and Roger Adams -- would
20 be personally looking at the documents?

21 A Yes.

22 Q Was there any discussion on the evening of

1 July 21st about how issues of privilege would be
2 addressed?

3 A I don't recall one.

4 Q What happened the next day regarding this
5 case, the Foster matter?

6 A The next day -- it's a long day.

7 Q Thursday, the 22nd.

8 A Regarding the Foster matter. I did not see
9 Roger or David before they went over. They must have
10 gone over when I wasn't around. I think the first
11 thing that I can recall happening was when I walked
12 into the conference room at about 10:30.

13 Q That's the deputy's conference room?

14 A The deputy Attorney General's main
15 conference room, and discovered the deputy talking on
16 the phone with regard to this matter.

17 Q Who was he talking to?

18 A It was my understanding that he was talking
19 to Bernie Nussbaum, but I may have believed when I
20 first walked into the conference room he was talking
21 to David. I'm not certain what the secretary
22 informed me. I went in there because he wasn't

1 supposed to be on the phone talking to somebody.

2 Q He was supposed to be in a meeting?

3 A He absolutely was supposed to be in a
4 meeting that, if I recall, I had rescheduled three
5 times, and he wasn't.

6 Q At some point, did you hear him addressing
7 Bernie Nussbaum by name as Bernie?

8 A I don't recall if he used the word
9 "Bernie."

10 Q But at some point he told you later he had
11 been talking to Mr. Margolis and Mr. Nussbaum in that
12 call?

13 A He told me he had been talking to Bernie
14 Nussbaum.

15 Q What did you hear in this conversation --
16 let's begin with what you heard in the conversation.

17 A I heard Phil Heymann telling Bernie
18 Nussbaum as he was pacing back and forth you're
19 messing this up, and he either said badly or very
20 badly, and he repeated that a number of times, and
21 that got my attention. Those were strong words from
22 Phil Heymann. And there was a pause, and I assumed

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1 the other party was speaking. And he said I'll just
2 call them back; I won't make a big deal about it, but
3 I will just call them back.

4 Q And what else did you hear?

5 A That was what grabbed my attention. It was
6 not that long a phone call. But I remember being
7 quite taken aback by it, and I went in and sat down,
8 thinking I might have to memorialize it, memorialize
9 the conversation, that he would give me some
10 information on it, and so I sat down and waited for
11 the conversation to end.

12 Q How did it end?

13 A It ended very abruptly. I had this strong
14 sense that this was an unfinished conversation.

15 Q And what did Mr. Heymann then tell you
16 about the conversation?

17 A I'm somewhat hazy on whether or not he told
18 me this immediately after the conversation or some
19 other point in that day, but I think after that
20 conversation, I said what's going on? And he said
21 that the White House counsel's office or Bernie -- I
22 don't recall who he referenced -- had decided they

1 were not going to permit the department officials to
2 look at the notes. Phil also indicated that --

3 Q When you say "the notes," you mean the
4 documents?

5 A I'm sorry, the documents, whatever was in
6 Mr. Foster's office. And he was sort of upset over
7 this, and he said -- he sort of expressed his
8 concern. He didn't understand why this was so, and
9 he said to me I even offered to send OLC attorneys
10 over if the White House counsel's office would be
11 more comfortable with those department attorneys
12 assisting in going over issues of privilege because
13 they handle privileged documents for the White House
14 all the time.

15 And he also indicated that -- he had
16 suggested that the department attorneys who would
17 review the notes did not have to read everything in
18 detail. They just needed to determine whether or not
19 a document could possibly be relevant and mark it.
20 But Bernie Nussbaum did not agree to any of this. He
21 would not agree to any sort of compromise and did not
22 want anyone looking at any of the notes.

1 Q Did Mr. Heymann tell you anything else
2 about the conversation?

3 A I don't recall. I mean, he had to run off
4 to do something else.

5 Q Later that day, did he tell you anything
6 more about the conversation?

7 A No.

8 Q From Mr. Heymann's recounting to you of the
9 conversation, was it your understanding that
10 Mr. Nussbaum had changed the previous agreement?

11 A Yes.

12 Q Was it your understanding that, as of the
13 night before, there had been an explicit agreement
14 between Mr. Heymann and Mr. Nussbaum that the
15 department attorneys were going to be looking at the
16 documents?

17 A Absolutely.

18 Q And Mr. Heymann, is it fair to say, was
19 angry about the fact that the agreement had been
20 unilaterally changed?

21 A "Angry" is a strong word for Phil Heymann,
22 but I would say agitated. For another person, that

1 would be angry.

2 Q I want to refresh your memory a little bit
3 from page F166 of the notes, where you indicate Phil
4 was on the phone with Bernie Nussbaum and he said
5 "you are messing this up very badly. I think you are
6 making a terrible mistake." Is it your recollection
7 that was accurate as of the time you dictated that?

8 A I'm sure that was accurate. I don't recall
9 if I dictated that that day or a few days later, but
10 I very often use quotes to remind me of an entire
11 conversation. That's how I recall things. So if I
12 put a quote down, at the time I put it down, I
13 thought it was accurate.

14 Q Now, as of the close of this conversation
15 in the morning, was it your understanding that
16 Mr. Margolis and Mr. Adams were going to come back?

17 A It was my understanding at the end of that
18 conversation that the search was not going forward
19 until this was resolved. Phil did not say he would
20 call them back. I mean, Phil did not say he was
21 going to do that immediately. He didn't give me any
22 instructions, and it was my sense that there was

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1 another phone conversation that took place. This was
2 just unfinished.

3 Q Did Mr. Heymann indicate to you that
4 Mr. Nussbaum was going to consult with anybody else
5 about this?

6 A No.

7 Q What happened next?

8 A With regard to this matter?

9 Q This matter.

10 A I recall David coming back that evening,
11 later in the evening. And I went by his office, and
12 I said how did it go? And he said -- he told me that
13 they had not been permitted to look at the notes, and
14 David went into a long discussion of how they had not
15 been permitted to look at the notes.

16 Q When you say "look at the notes," you mean
17 the documents?

18 A Documents.

19 Q What did David Margolis tell you?

20 A Oh, he told me a great many things. David
21 liked to use a special assistants as his sounding
22 boards. And there was always a lesson to be learned

1 from something David was going to impart, so I would
2 sit in his office and be told things. Chip knows
3 what I'm talking about.

4 David described sort of the scene in the
5 office. I think it was the first time I learned how
6 many agents had been standing around, and he said
7 Park Police officers were there -- or maybe one; I
8 don't recall, there was Secret Service there, FBI was
9 there, we were there, and they didn't look at a
10 thing.

11 He said Bernie sat behind Foster's desk,
12 and he had Steve Neuwirth on one side -- over one
13 shoulder and Cliff Sloan on the other side, and they
14 were whispering in his ear every time a document was
15 produced. And Bernie would look at it and say this
16 is privileged or this is not privileged and always
17 had somebody whispering in his ear, the way David
18 portrayed it. And they were sort of to stand there
19 and not to have any role, but to just have these
20 documents reviewed by the White House counsel's
21 office, and David said he felt like a decoration.
22 But he was particularly concerned with the way the

1 FBI were treated.

2 Q In particular, what did he say about that?

3 A He thought that it was inappropriate to
4 call FBI agents into a room to watch somebody else go
5 through documents, that this was somehow -- he didn't
6 say it in as many words, but it was inappropriate.

7 Q Did you have the understanding from his
8 conversation that Mr. Nussbaum had been reading and
9 describing the documents to the people who were
10 assembled or that he was simply stating his
11 conclusion about the categories in which the
12 documents fell?

13 A It was my understanding that he wouldn't
14 let anyone look at the notes besides himself, Cliff,
15 Steve Neuwirth and that he wasn't characterizing
16 them. He was just explaining this is privileged or
17 this might have to do with some sort of business, but
18 he wasn't describing, necessarily, the document. I
19 think it was a little brief, one-or two-line
20 description.

21 Q A categorization rather than a description?

22 A I'd say that was accurate.

1 Q Did he indicate that there had been a
2 particular incident with one of the FBI agents and
3 Mr. Sloan?

4 MR. BRAGA: Did David indicate that?

5 MR. CHERTOFF: In this conversation.

6 THE WITNESS: David repeated to me any
7 number of times that Cliff Sloan had accused an FBI
8 agent who I later learned was Scott Salter of
9 peeking. And David was really incensed by this, to
10 accuse his FBI agents of doing something after they
11 had agreed not to do that. David would often refer
12 to the FBI agents as his agents, a habit he developed
13 over a long period of time.

14 BY MR. CHERTOFF:

15 Q Did Mr. Margolis tell you in this
16 conversation that he complained to Mr. Nussbaum about
17 this procedure?

18 A In that conversation? It was clear to me
19 that David was protesting the entire time about this
20 procedure.

21 Q Did you have any other conversations at a
22 later point in time with Mr. Margolis in which he

1 told you anything more about what he had said to
2 Mr. Nussbaum about this procedure?

3 A Later, I think when we -- in February, when
4 Phil Heymann left and we sat down and had that
5 general meeting, David had shared with us a number of
6 statements he had made to Bernie. And I recall he
7 had told me some of those earlier. David told me on
8 a number of occasions how upset he was and how he had
9 explained to Bernie Nussbaum that this just wasn't
10 appropriate and why were department officials even
11 there if they were not to participate. It had come
12 up a number of times, yes.

13 Q Did he tell you that he -- withdrawn.

14 What did he say to you about why he stayed
15 and sat through this procedure?

16 A I asked David why it was that this took
17 place because earlier in the day I told him I heard
18 Phil Heymann telling Bernie Nussbaum that wasn't the
19 way it was going to go. And I really do recall David
20 saying well, that's the way it went. And I said that
21 doesn't make sense. I guess he must have called
22 back. They must have reached some agreement or the

1 deputy might have been overruled. And I don't know
2 if that was David's understanding at that point, but
3 I thought that if the search or nonsearch went
4 forward the way it was described to me by David
5 Margolis, that somehow the department must have
6 agreed to it.

7 Q Did you ever learn whether the department
8 agreed to that?

9 A I later learned we had not.

10 Q Who did you learn that from?

11 A Phil Heymann.

12 Q When did you learn that?

13 A Many months later.

14 Q During this February meeting?

15 A No, before then.

16 Q During the fall of '93?

17 A I really don't recall, Mike.

18 Q How did it come up?

19 A I think we were talking -- we were talking
20 about David, and I said -- David seems really
21 concerned about all the attention given to how the
22 search was conducted. And Phil said well, he's

1 concerned because the department didn't agree to it
2 that way, and he thought they did. And I said you
3 didn't agree to that? And he said of course, I
4 didn't agree to that. And that was the first time
5 that I guess I had really definitively learned. I
6 didn't ask Phil Heymann before that.

7 Q Just out of curiosity, why didn't you ask
8 Phil Heymann before that?

9 A I didn't know if he had changed his mind or
10 had been ordered to or if the Attorney General had
11 somehow interjected. I didn't know what happened,
12 but I knew if he had agreed to it, it was against his
13 better judgment. And honestly, I didn't want to
14 know.

15 Q But what he told you after the fact was
16 that he had not agreed to it?

17 A He had not agreed to it, and that made
18 sense.

19 Q Was it your impression from your
20 conversation with David Margolis either that day, the
21 22nd, or any other occasion that David Margolis
22 believed the department had agreed to this procedure?

1 MR. BRAGA: On that day as he sat there?

2 MR. CHERTOFF: Yes.

3 THE WITNESS: It was my impression that
4 David believed that the department was to go along, I
5 guess, with whatever Bernie suggested.

6 BY MR. CHERTOFF:

7 Q Where did David get that belief from?

8 MR. BRAGA: To the extent that you know.

9 THE WITNESS: I don't. I don't know.

10 BY MR. CHERTOFF:

11 Q Did David tell you he had been told that by
12 Mr. Nussbaum?

13 A As I recall, David told me that he had been
14 kept waiting for a very long time at the White House,
15 and there were conversations between he and Phil and
16 he and Bernie, and that he gave the phone to Bernie
17 and Bernie spoke with Phil Heymann. And I think
18 there was again a long period where they were
19 waiting, and then Bernie came out and said it's all
20 settled. It's all taken care of. It's all agreed
21 to.

22 Q And from your discussions with

1 Mr. Margolis, was it your understanding that
2 Mr. Margolis took that statement by Mr. Nussbaum to
3 indicate that the department had agreed to the
4 procedure going forward as it, in fact, went forward?

5 A I'm really not certain what David was
6 thinking at that point, but I think he was presented
7 with an approved plan of action by the President's
8 council, and I'm sure that he believed that the
9 Department of Justice had agreed to it in some way,
10 either implicitly or by abdicating responsibility for
11 how those documents were going to be reviewed.

12 Q And Mr. Margolis, in connection with this
13 issue, told you that Mr. Nussbaum had said to him
14 it's all settled; come over?

15 A Yes.

16 Q Was there a point during this day on the
17 22nd that you learned that Mr. Margolis stepped
18 outside for a cigarette and Mr. Nussbaum came chasing
19 after him?

20 A Yes.

21 Q Tell us about -- is this something that
22 Mr. Margolis told you at the end of the day?

1 A Oh, yes. David loved to recount stories,
2 Mike. And I can't remember everything he told me
3 about this, but I know that I was sitting on his
4 couch in his office for many hours listening to how
5 these events took place, not on just one evening.

6 Q Whenever you learned about the story and
7 however many times you learned about it, tell us
8 about that.

9 A They had been kept waiting for hours, and I
10 don't know if they were in the OEOP lobby or White
11 House lobby. But at some point David really needed a
12 cigarette because he can't go very long without a
13 cigarette, and he stepped outside for a cigarette.
14 And he said Bernie Nussbaum was concerned that David
15 had left and perhaps taken agents with him. Bernie
16 came running after him and was all frantic. David
17 liked to do impersonations of Bernie Nussbaum
18 frantic, and he did one for me.

19 Q I don't think the record can capture that
20 so I'm not going to ask you to do that.

21 Do you remember in your conversation -- at
22 this point, I'm going to ask you what Mr. Margolis

1 has told you at any point in time concerning the
2 events on that day. I'm not going to require that
3 you distinguish on which day he told you which
4 thing. Based on your conversations with
5 Mr. Margolis, did he discuss the issue of the search
6 of the briefcase in Mr. Foster's office with you?

7 A No, I don't recall that coming up.

8 Q Did he discuss the issue of the trash,
9 search of trash in the office?

10 A No. I think the only reference he made to
11 trash was that he said Vince Foster's office was a
12 mess, and that there was junk everywhere, and that
13 when you opened a drawer, all these crumpled up
14 pieces of paper would jump out. So it was hard to
15 distinguish what was a document from what was trash.

16 Q What did he tell you about what
17 arrangements were made or what conversation there was
18 between himself and Mr. Nussbaum at the conclusion of
19 this procedure in which Mr. Nussbaum reviewed the
20 documents?

21 A I don't recall if he said anything at the
22 conclusion.

1 Q Did he tell you that he had requested that
2 Mr. Nussbaum keep the office secured?

3 A I don't recall. He may have.

4 Q Did he tell you that Mr. Nussbaum had
5 refused to do so?

6 A I don't recall.

7 Q Did he tell you that some documents had
8 been given to the Foster family's private attorney to
9 be taken back to the family?

10 A Yes, and he told me that was done at the
11 suggestion of the FBI.

12 Q And what was his view of that?

13 A He said that he thought that it was pretty
14 sad that an FBI agent would say I trust Mr. Foster's
15 personal attorney more than I trust the President's
16 counsel to handle these documents.

17 Q What did you understand him to mean by that
18 remark?

19 MR. BRAGA: The FBI agent?

20 BY MR. CHERTOFF:

21 Q Let me back up and ask you this.
22 Mr. Margolis didn't tell you that the agent

1 specifically said I trust the Foster family attorney
2 more than the President's counsel, did he?

3 A Yes, he did.

4 Q Oh, he did. Then I'm corrected. Then as
5 best as you can recount, what were you told by
6 Mr. Margolis -- what did Mr. Margolis tell you the
7 agent said at the time that the issue of the handling
8 of the personal papers came up?

9 A I think -- as I recall, Bernie Nussbaum
10 suggested that they be put off or that Bernie would
11 keep them or something to that effect, and that an
12 FBI agent asked to speak with David privately. And I
13 don't recall if they went out in the hallway, but it
14 was such a small office, that my sense is that they
15 did. And he said he preferred that they be put in
16 the hands of Mr. Hamilton because he trusted
17 Mr. Hamilton more with those documents.

18 Q Mr. Hamilton and his firm were the
19 attorneys for the Foster family?

20 A I believe that's correct, and I believe
21 that his name was already known as the family -- the
22 firm handling the family's personal affairs.

1 Q And accordingly, did Mr. Margolis agree to
2 have the Hamilton firm take custody of the personal
3 documents?

4 A I believe he told me they did.

5 Q What happened to the other documents that
6 Mr. Nussbaum had gone through?

7 A I don't know.

8 Q What, if anything, did Mr. Margolis tell
9 you about whether any of the documents in
10 Mr. Foster's office were to be removed to the
11 Clintons's private attorney?

12 A The Clintons's private attorney?

13 Q Did he say anything about that? Did he
14 indicate that had come up in the conversation on the
15 22nd?

16 A I don't recall.

17 Q Did you also learn during the course of --
18 let's first start on the 22nd. Did you also learn at
19 some point on the 22nd that there had been interviews
20 of various individuals at the White House by the Park
21 Police and the FBI?

22 A On the 22nd, I think David said that while

1 he was waiting, the agents -- I don't know if he told
2 me exactly what department they were with, but the
3 agents went off and did interviews.

4 Q Did he tell you anything about how those
5 interviews were conducted?

6 A No.

7 Q Did there come a point later that you
8 learned how those interviews were conducted?

9 A I don't recall if anyone told me anything
10 about that.

11 Q Did there come a time on or after the 22nd
12 of July that Mr. Heymann or Mr. Margolis or someone
13 else in the Department of Justice complained about
14 the fact that during the interviews attorneys from
15 the White House counsel's office had sat in with the
16 witnesses even though they were potentially witnesses
17 themselves?

18 A I recall that at some point the Department
19 of the Interior had sent an official over and part of
20 the complaint of the Park Police was that White House
21 counsel's office members had interrupted interviews;
22 burst in, I think, were their words.

1 Q But that's something you learned from the
2 people from the Interior?

3 A I didn't learn it from people from the
4 Department of the Interior.

5 Q That's something that you understood was
6 raised by people from the Department of Interior?

7 A Yes.

8 Q Let me just show you F166 to 167, the
9 paragraph that ends in the last line of 166 and
10 carries over into 167, and, in particular, at the
11 very top of 167, there's what looks like to me a
12 fragment of a sentence. I'm not quite sure what you
13 meant by that. It says "Phil later suggested."

14 A I don't know what I meant by that. It
15 looks like when I was dictating, I must have started
16 saying something and started saying something else,
17 and I just typed it up accurately. I don't know what
18 that is.

19 MR. BRAGA: Just so the record is clear,
20 the phrase that she's talking about says "Phil later
21 suggested at the end of that day when David
22 returned."

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1 THE WITNESS: I've got a "hyphen hyphen" --
2 I probably trailed off. I may have hit a green
3 light.

4 MR. BRAGA: May have hit a car.

5 BY MR. CHERTOFF:

6 Q Did you have any more conversation with
7 Mr. Heymann on the 22nd that you can recall besides
8 what you've testified to?

9 A I don't recall whether or not -- if I
10 referenced something in my notes, that would bring it
11 back to me, but we talked any number of times during
12 that day. It's likely it came up, but I don't know.

13 Q I'm going to direct your attention to F156,
14 which is your handwritten time line that you've
15 previously indicated was prepared on or about
16 February 11, 1994. If you could just read where it
17 says, from "Thursday 10:00 a.m." on to the end of the
18 page?

19 A "Thursday 10:00 a.m. we arrive at 10:00.
20 Cops go off to do interviews. Bernie has new plan.
21 He will look at docs. David called bec," and that's
22 b-e-c, which I believe stands for because, "he now

1 knows the new plan not cleared."

2 Q Let me stop you. This was something that
3 was put together on February 11. Was this based on
4 what Mr. Margolis was telling you?

5 A Yes.

6 Q And what was your understanding of what
7 that last phrase "caused the DAG because knows plan
8 not clear"?

9 A It was my understanding that David was
10 stating that he now heard that they would not be
11 reviewing the documents and he would call Phil
12 Heymann to see if, in fact, this was acceptable to
13 the department.

14 Q Please continue.

15 A "DM calls Phil and hands phone to DAG." I
16 believe that's an error. I meant to write "he hands
17 phone to Bernie Nussbaum." "David remembers that
18 decision was we had pushed Bernie to wall to change
19 his mind" and then there's the word "and" and that's
20 crossed out "but would let."

21 Q Then the next page, page 157?

22 A "Bernie ultimately make the call."

1 Q What does this portion of the notes
2 indicate to you? This is something that Mr. Margolis
3 said at the meeting on the 11th?

4 A Yes. This is something David contributed,
5 and I was taking notes on what David stated. The
6 point of the meeting was really to prepare a time
7 line, but people were offering their comments on what
8 had happened, and so I was just accurately trying to
9 write it down.

10 Q Do you know what that reference was to,
11 this portion that you had written down?

12 MR. BRAGA: The portion that refers to the
13 plan?

14 MR. CHERTOFF: Yes.

15 THE WITNESS: It refers to David's
16 understanding of how the search of Mr. Foster's
17 office was to be conducted and whether or not that
18 was cleared by the Department of Justice.

19 BY MR. CHERTOFF:

20 Q And in the meeting on February 11th, now.
21 What was your understanding of what Mr. Margolis was
22 saying concerning whether the search was cleared by

1 the Department of Justice?

2 A He was saying he knew when he was first
3 told that there was a new plan; that this had not
4 been cleared. This was not the understanding that
5 had been reached the day before. And then he called
6 the deputy Attorney General to speak with him
7 regarding this matter, and that subsequently, Bernie
8 Nussbaum and Phil Heymann had a conversation.

9 Q And you understood that to be the
10 conversation that you were a part of?

11 A Yes.

12 Q And go on.

13 A And David recollected that it was his
14 understanding that ultimately Bernie would get to
15 make the call.

16 Q Now, that's what Mr. Margolis was saying on
17 February 11th?

18 A Yes.

19 Q And your understanding from prior
20 conversations with him was that at the time that he
21 went in to Mr. Foster's office to be present for this
22 procedure, he believed that Justice had acquiesced in

1 some fashion?

2 A Yes, and that doesn't necessarily mean that
3 the agreement was overt, but just that maybe Justice
4 had thrown up its hands and said fine, we'll do it
5 your way.

6 Q And you know from Mr. Heymann that, in
7 fact, that acquiescence had never really occurred?

8 A Yes.

9 Q Can you just keep reading your notes?

10 A Starting on page 157?

11 Q Where you left off.

12 A "David said 'mail us results.' BN." And
13 it says "I know it's for show."

14 Q This is on February 11th looking back.
15 What was Mr. Margolis telling you about this portion
16 of the conversation?

17 A David was interjecting his comments. And
18 at this point that's when I was telling Bernie why
19 don't you just mail us the results.

20 Q And Bernie responded?

21 A I know that you're here partly for show.
22 And I don't know if that was in response to,

1 directly, the mail us the results comment, but Roger
2 Adams might have contributed that because Roger had
3 expressed his particular irritation that Bernie was
4 so bold in stating I know you guys are here just for
5 show.

6 Q Okay. Keep reading.

7 A "Cindy saw Phil in CNOF room" and I believe
8 that stands for conference room "between," that's
9 B\N, "10:30-11:00" and I've got "you're messing this
10 up."

11 Q That's a reference to the conversation
12 you've testified about?

13 A Yes, and I think this is a reference to the
14 quoted language that I had earlier noted, and I had
15 reviewed that before, obviously before I sat down for
16 this meeting. Otherwise, I don't believe I could
17 have recalled this quote this accurately that many
18 months later.

19 Q Keep reading.

20 A "Said he had called David and Roger back
21 here. Won't make a big deal about it -- won't make a
22 big deal about. BN said he'd call back DAG but

1 didn't. Told DM/RA to stay in lobby -- not to leave
2 when DM went out for a cig. BN panicked, came
3 running after DM." Then it says at "12:45 -- told
4 DMRI" and it ends there and it says in the margin
5 "after meeting" with a little arrow and it is
6 pointing to the words "at some point, DM said if this
7 were IBM, I'd have subpoenaed. BN said if this were
8 IBM" -- looks like a hyphen "smart lawyer would have
9 removed" -- and I cannot read that word, and it looks
10 like an ampersand "privilege would have attached."

11 Q If I could ask for the record, because we
12 got this from the Department of Justice, whether you
13 may have a copy that doesn't have a cutoff on the
14 Xerox on the bottom of whatever that number is?

15 MR. FISHMAN: I believe the document is --
16 as far as I can tell, the document ends with the
17 lines "would have removed them and privilege would
18 have attached."

19 THE WITNESS: That's the word; "them."

20 MR. FISHMAN: And I believe that's the end
21 of the document, the way the lines end up on the
22 subsequent pages, it looks like the end of the page.

1 MR. BRAGA: I think the word she couldn't
2 read was "them."

3 BY MR. CHERTOFF:

4 Q Continuing on to F158.

5 A "DM told Bernie that he'd make a detailed
6 inventory."

7 Q What did you understand that to mean?

8 A I really don't recall what that was about.
9 I believe it had to do with the discussion of the
10 inventory of the documents that were in Vincent
11 Foster's office, but it's not triggering any specific
12 memory.

13 Q Was this part of this discussion of the
14 hypothetical of what would happen if this was IBM and
15 which Mr. Nussbaum said he'd remove the documents and
16 the privilege would attach?

17 A I don't know.

18 Q Stepping away from the notes for a second,
19 to your knowledge, did Mr. Nussbaum ever create --
20 did Mr. Nussbaum or anyone at his direction ever
21 create a detailed inventory of all the documents in
22 the office?

1 A I had never seen one, and I never heard
2 that one had been prepared.

3 Q Did they ever create a privilege log or any
4 comparable document that would identify documents as
5 to which they were claiming privilege?

6 A I don't know.

7 Q Please keep reading.

8 A "DAG called BN on night of 22nd. Reamed
9 him out." And reamed is spelled r-e-a-m-e-d. I
10 think I was guessing as to how that was spelled. "Do
11 you have anything to hide?" And it says "July
12 26th."

13 Q Before we get to July 26th, this last
14 comment where it says "DAG called BN on night of
15 22nd. Reamed him out. Do you have anything to
16 hide?" When did you first learn about this
17 conversation that had occurred between the deputy
18 Attorney General and Mr. Nussbaum on the night of the
19 22nd?

20 A I think he told me about that earlier in
21 the context of telling me he had not agreed to the
22 plan.

1 Q Do you remember what he said about the
2 conversation -- can you amplify on when he said the
3 conversation with Mr. Nussbaum was?

4 A He said I called Bernie from my home, from
5 my kitchen, and I told him it was a double cross.

6 Q Did he say what Mr. Nussbaum said?

7 A No, he didn't. I recall asking him if
8 Bernie had an explanation, and he said that he really
9 didn't.

10 Q From this conversation, is it your
11 understanding that he said to Mr. Nussbaum do you
12 have anything to hide?

13 A I can't recall if it was in that
14 conversation or in another conversation, but at some
15 point there was a growing concern that this behavior
16 on Bernie's part was rather odd and that perhaps
17 there might be some truth in all of the crazy press
18 reports we were reading that maybe there was
19 something to hide in the office. And Phil Heymann
20 had asked Bernie Nussbaum directly, do you have
21 anything to hide.

22 Q And what did Mr. Heymann say Mr. Nussbaum's

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1 response was?

2 A He said that Bernie responded no, of course
3 not.

4 Q Did there come a point in time -- you
5 indicated there was discussion about whether there
6 was something to hide. In the discussions that you
7 were present for with Mr. Heymann and/or
8 Mr. Rosenstein, Mr. Adams, Mr. Margolis, was there
9 any surmise about what there might have been to hide
10 in those documents?

11 A You mean was there any speculation?

12 Q Yes.

13 MR. BRAGA: In conversations with those
14 individuals Mike has referenced.

15 THE WITNESS: I believe that David
16 speculated that because Mr. Foster had been handling
17 personal affairs for the First Lady and the
18 President, that perhaps the First Lady or the
19 President did not relish the idea of, in David's
20 words, gumshoes tracking mud through the west wing
21 and rifling through their personal papers. And David
22 suggested that this might have just been a question

1 of having strangers go through personal files, and
2 that, had it been someone other than Vince Foster,
3 that might not have been an issue.

4 BY MR. CHERTOFF:

5 Q By the way, you previously made reference
6 to the office of OLC, which I take it is the Office
7 of Legal Counsel?

8 A Yes.

9 Q Is it that office which typically, in fact,
10 represents the Executive Branch in matters where
11 executive privilege is being litigated?

12 A I don't know if the Office of Legal Counsel
13 takes part in litigation.

14 Q Let me rephrase that. Do they typically
15 offer opinions or advice about executive privilege
16 that's relied upon by the Executive Branch in making
17 assessments about the --

18 A The Office of Legal Counsel is charged with
19 issuing formal opinions regarding any number of
20 matters, including executive privilege.

21 Q Is it your understanding from time to time
22 members of that office, in fact, inspect documents

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1 and review them and see whether they are subject to
2 executive privilege?

3 A I don't know if that is what the Office of
4 Legal Counsel does. My understanding is that most of
5 what they do involves research and putting out formal
6 opinions. I don't know that they do document
7 review.

8 (Pause.)

9 Q Let me direct your attention to the period
10 of time from Friday, July 23rd until Tuesday, July
11 27th. During that period of time, other than reading
12 about this in the newspaper, was there anymore
13 official action at the Department of Justice
14 regarding the Foster documents or the Foster death?

15 MR. BRAGA: That she was involved in?

16 MR. CHERTOFF: That you know.

17 THE WITNESS: I recall on one of those
18 days -- I believe it was July 27th, but I could very
19 easily have my dates wrong -- that -- let me back
20 up. If I could review my notes, I could recall the
21 date.

22 BY MR. CHERTOFF:

1 Q I can help you out. The 27th of July,
2 which is Tuesday, is the day that the Attorney
3 General and Mr. Heymann were notified in the evening
4 about the fact that a note had been found or writing
5 had been found in the briefcase?

6 A Yes.

7 Q So bearing that in mind, between the
8 Thursday that you've testified about on July 22nd and
9 up to the point of time of that occasion on the 27th
10 when the Attorney General and Mr. Heymann were given
11 notice of this writing, is it your understanding the
12 Department of Justice was involved in the Foster
13 matter in any official way or took any official
14 action?

15 A It was my understanding that the FBI was
16 continuing to work on the matter.

17 Q Over the weekend?

18 A I don't know specifically what they were
19 doing, but David was receiving, I think, reports from
20 the Bureau. I don't know if they were doing lab
21 results or what interviews they were conducting. It
22 was my understanding at some point that they had a

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1 preliminary inquiry open. I don't know if it was at
2 this point in time. And they were also acting in a
3 supportive capacity to the United States Park Police.

4 Q What about the department lawyers,
5 Mr. Adams and Mr. Margolis, were they participating
6 after the 22nd and up until the evening of the 27th
7 in this anymore?

8 A I don't recall if David received reports
9 from the Bureau during this period of time, but he
10 routinely received reports from the Bureau on
11 interviews they were conducting, and he may have
12 worked on some matters.

13 Q Did you come to learn at any point after
14 the body of Mr. Foster had been found and during the
15 week of the 20th and the week of the 26th of July
16 whether the United States attorney's office in the
17 Eastern District of Virginia had in any way gotten
18 involved in the investigation of the death?

19 A I don't know that I recall any references
20 to EDVA.

21 Q Let me direct your attention to July 27th
22 in the evening. Did there come a point that

1 something happened in connection with the Foster
2 death at that time?

3 A Yes. If I have that date correct, that is
4 the date on which someone from the White House -- I
5 don't recall whom -- contacted the Attorney General
6 and the deputy Attorney General and requested their
7 presence immediately.

8 Q And Mr. Heymann was actually in a meeting
9 at that time?

10 A He was in the Attorney General's advisory
11 committee meeting with you, I believe.

12 Q Actually, I think I was on vacation,
13 happily enough. Either that or I was on trial.

14 Did you later learn from him what had
15 happened?

16 A Oh, yes.

17 Q When did you learn that?

18 A Late that night when he finally returned.

19 Q Tell us what he told you.

20 A We waited for a long time for Phil Heymann
21 to return, probably 9:00 or whatever, and people had
22 just gone home when he finally got back. And we all

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1 had dinner together in David's office. I think it
2 was some awful food from the Pavilion, and we went
3 and got Phil a burrito and said aren't they going to
4 feed him at the White House. He said no, they
5 wouldn't think to do anything so polite.

6 MR. BRAGA: Won't even let him have a
7 cigarette.

8 THE WITNESS: We went and got Phil dinner
9 and I put it in his office. And he came in, and I
10 said where have you been? What's gone on? And he
11 explained that a note had been discovered.

12 BY MR. CHERTOFF:

13 Q And what did he tell you?

14 A He specifically said he didn't want to tell
15 me what was in the note, but it had these
16 complaints. He said they were silly complaints, some
17 of them. He was telling me they were silly
18 complaints sort of just to let me know that there was
19 nothing in the note itself which gave rise to
20 suspicions, but there were complaints in this note.
21 And the note had been torn up, and that had been
22 discovered by a member of the White House counsel's

1 office.

2 And he described Bernie Nussbaum as being
3 in possession of this note and that he called the
4 Attorney General and the deputy Attorney General over
5 there and put the note together for them on the
6 table. And he explained that it looked like he had
7 put it together a number of times and knew exactly
8 where all the pieces went. And that there was just
9 great concern on the part of all these people
10 involved. And my sense was at this point, the number
11 of people that were involved had expanded beyond the
12 White House counsel's office.

13 Q When you say "number of people involved,"
14 what do you mean?

15 A Well, the general description I was getting
16 from Phil Heymann involved people, I think, in
17 communications, and everyone apparently within a
18 certain group of people knew about the discovery of
19 this note.

20 Q Before Mr. Heymann and the Attorney General
21 knew about it?

22 A Yes.

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1 Q What else did he say?

2 A He said that -- they had certain concerns.
3 He didn't tell me what they were. And that the
4 Attorney General just listened to what everyone had
5 to say and then said well, you've got a piece of
6 evidence; Park Police have an investigation open.
7 This is within their jurisdiction, so let's call them
8 and turn this over. And the way he described it,
9 sort of made it sound like there was a lot of talk
10 going on. And the Attorney General sort of listened
11 patiently and sort of repeated this, and finally, she
12 got up and left. She said I have a dinner
13 engagement.

14 Q Did Mr. Heymann tell you that the Attorney
15 General was upset or irritated by the fact that this
16 had been raised in this manner?

17 A I don't recall him saying that. What he
18 was telling me was that he was very impressed with
19 the way she acquitted herself.

20 Q What was his own reaction?

21 MR. BRAGA: As articulated that evening?

22 MR. CHERTOFF: Yes.

1 THE WITNESS: He just agreed with the
2 Attorney General and wanted to leave with her. He
3 thought the matter had been decided, that the note
4 would be turned over.

5 BY MR. CHERTOFF:

6 Q In fact, did he stay until the Park Police
7 arrived to pick up the note?

8 A Yes, he did.

9 Q And that was at Mr. Nussbaum's request?

10 A Yes.

11 Q Why did Mr. Nussbaum request that?

12 MR. BRAGA: Object to the form.

13 BY MR. CHERTOFF:

14 Q What did Mr. Heymann tell you about why
15 Mr. Nussbaum had requested that?

16 A I don't know that he ever told me why
17 Mr. Nussbaum requested it. Just that he wanted to
18 leave with the Attorney General. And I believe they
19 had come over in the same car, and they wanted to get
20 a ride back to the department. And Bernie said
21 you've been here this long, why not stay until the
22 Park Police officer arrives? And I think Phil said

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1 well, that made some sense, so I stayed.

2 Q Did you have any discussion among you that
3 evening concerning the circumstances under which this
4 note had been found?

5 A I think everyone had gone home. Phil
6 Heymann was there, I was there, Gary Katzmann was
7 there.

8 Q On the next day when Mr. Margolis was in,
9 was there any discussion that you were present for
10 about the circumstances under which the note had been
11 found?

12 A I really don't recall. I'm sorry.

13 Q On the next day, the Wednesday, putting
14 aside whether Mr. Margolis was present or not, did
15 you have any further discussions about the
16 circumstances in which the note was found?

17 A I'm sure I did. But I just can't recall
18 the substance of them. What I recall is that Phil
19 Heymann came back, he sat me down -- he is very much
20 like David Margolis. He likes to give lessons to the
21 young people, and he explained how well the Attorney
22 General handled herself and contrasted her with

1 previous Attorney Generals and said that it was
2 wonderful that the Attorney General just wasn't in
3 any way flustered.

4 And he said I don't want you to think it
5 was an easy thing for her because I don't think it
6 was an easy thing for her to be surrounded by all
7 these important people telling her that there were
8 all these issues and for her to see right through to
9 the simplicity of just having to call the Park Police
10 and turn this note over. But you know, she did it,
11 and it was great.

12 Q Let me go back to this, then, because I
13 want to make sure I understand. Was it your
14 impression from Mr. Heymann that the White House
15 people there were advocating something other than
16 turning it over to the Park Police?

17 A It was my impression that Phil Heymann was
18 specifically not telling me what they were
19 advocating.

20 Q But your impression from Mr. Heymann was
21 that the Attorney General's statement "it should be
22 turned over to the Park Police" was somehow a

1 departure from the other options being discussed?

2 A It was my impression that it was not
3 self-evident.

4 Q It wasn't an agreed-upon consensus decision
5 or consensus view?

6 A I don't know that anyone disagreed with it
7 once the Attorney General stated that's what would
8 happen. It's possible they thought the note should
9 be turned over to the Attorney General and that she
10 was explaining that it was not within her
11 jurisdiction. The Park Police had the lead on this
12 investigation. A fatality did occur within their
13 jurisdiction.

14 Q But Mr. Heymann made a point of telling you
15 he thought the Attorney General's statement had been
16 something significant or noteworthy within the
17 context of the discussion at the White House that
18 evening?

19 A He said, you know, so many attorney
20 generals have tried to do what they thought the White
21 House wanted in a particular situation, and Janet
22 Reno didn't even consider what anybody else wanted.

1 All she considered was what the right thing to do was
2 in this circumstance, and he was delighted that she
3 saw things so clearly.

4 Q On the next day, which is the Wednesday,
5 did Mr. Heymann indicate that he wanted the FBI to
6 begin an investigation -- an aggressive investigation
7 about the circumstances under which the note had been
8 found?

9 A Vigorous and thorough were his words.

10 Q To whom did he communicate this?

11 A Everybody.

12 Q Was there a meeting about this?

13 A Yes, there was. Tom Collier came over, and
14 I think I've marked down the date of the final
15 meeting.

16 Q You've marked down the date of -- I'll show
17 you your notes and see if that helps you. This is
18 for the record, F159.

19 A I've got Thursday the 29th, and I believe
20 we confirmed this because while we were making these
21 notes, we were pulling schedules, we were pulling
22 phone records, we were trying to gather together all

1 the important documents. So I believe when I wrote
2 this down, I might have had Phil Heymann's schedule
3 in front of me, and I had taken great pains to keep
4 that schedule up to date or given instructions that
5 it be kept up to date. And I believe Mr. Collier's
6 visit was noted on the schedule.

7 Q Were you present during Mr. Collier's
8 visit?

9 A No.

10 Q Did you hear about it afterwards?

11 A Yes. No one was present besides the deputy
12 Attorney General and Mr. Collier.

13 Q What did Mr. Heymann tell you about that
14 visit?

15 A I don't recall whether Phil Heymann told me
16 a great deal at that point or whether Roger Adams
17 told me something later, because I believe after
18 meeting with Mr. Heymann, Mr. Collier went and talked
19 to Roger Adams. He told me that the Park Police --

20 Q "He" being --

21 A Phil Heymann told me that the Park Police
22 had complained about the difficulty they were having

1 in conducting their investigation, and that they
2 requested that the Department of Justice take the
3 lead in the investigation and that the investigation
4 be turned over to the FBI.

5 Q And what was Mr. Heymann's response to
6 that?

7 A He agreed. Let me add this: They had a
8 long meeting, as I recall.

9 MR. BRAGA: Mr. Heymann and Mr. Collier?

10 THE WITNESS: Mr. Heymann and Mr. Collier
11 had a long meeting. It was off schedule, so
12 everything was messed up from that point on. And
13 they went into Phil Heymann's office and Phil Heymann
14 put his red light on, which means he was not to be
15 disturbed.

16 There was a long period of time when they
17 were in there talking, and I'm certain that I didn't
18 get even the full extent of what was discussed. But
19 when Mr. Collier came out, he went and spoke with
20 Roger Adams, as I recall, and I went and spoke with
21 Phil Heymann about what had gone on and how we could
22 salvage the rest of the day at this point. And he

1 told me that he came over as a representative who
2 oversaw the Park Police, if I'm not mistaken, and
3 wanted to take the Park Police out of the
4 investigation.

5 BY MR. CHERTOFF:

6 Q Now, when Mr. Heymann indicated the FBI
7 would get involved in the investigation, did he
8 indicate that the investigation would include a
9 consideration of the circumstances under which the
10 note had been found?

11 A Yes.

12 Q What other discussion do you remember that
13 day or within the next few days concerning the FBI
14 investigation and how it should be conducted?

15 A Shortly after Mr. Collier left, Phil
16 Heymann contacted -- I think my notes indicate it was
17 Mr. Gergen or might have been Bernie Nussbaum, and I
18 believe in that phone conversation he briefly
19 described to them that the Park Police wanted to
20 withdraw from the investigation, that he was going to
21 request or direct that the FBI conduct an
22 investigation into the circumstances surrounding the

1 handling of the note.

2 And he asked -- but I'm not sure if he gave
3 him all of this information from this first
4 conversation, but he asked to gather everyone
5 together in a room. And "everyone" I took to mean
6 was everyone who had been there several nights
7 earlier with regard to the handling of the note in
8 the first place, and that he wanted to call, and he
9 was going to give everyone explicit instructions.

10 Q In this call with Mr. Gergen, did
11 Mr. Heymann raise the issue about having these
12 interviews conducted without anybody present from the
13 White House counsel's office?

14 A I don't recall. I'm not certain if I was
15 in the room when he called Mr. Gergen or not. For
16 the first phone call, I don't recall being there.

17 Q Why did he call Mr. Gergen?

18 A He has a good relationship with David
19 Gergen. It was my sense that David Gergen had been
20 involved in the discovery of the note -- not the
21 discovery of the note. Excuse me. In the
22 discussions concerning turning the note over to the

1 Park Police. However, if you let me add, it's
2 possible Bernie just wasn't there and he called David
3 next, or it's possible he reached Bernie already. I
4 don't know.

5 Q Mr. Collier had complained in his
6 meeting -- let me withdraw the question.

7 Was it your understanding that Mr. Collier
8 had said to Mr. Heymann in the meeting on Thursday
9 morning that one of the complaints of the Park Police
10 was the presence of other people during the course of
11 their interviews?

12 A I'm not certain if he told me that at that
13 point or if I later learned it, but I learned from
14 either Phil Heymann or Roger Adams that one of the
15 concerns was that people had been entering
16 interviews, bursting in.

17 Q You say you were present for a second call
18 that Mr. Heymann made on Thursday?

19 A Yes, there was a second call.

20 Q Who was that to?

21 A There were a group of people, and I cannot
22 recall their names, but these were people whose names

1 are familiar. It was a large group of people, and
2 they were gathered around a speakerphone.

3 Q Were they people from the White House
4 counsel's office?

5 A I think there were some people from the
6 White House counsel's office there. I think there
7 were some communications people there. It's my
8 understanding that the people who had been involved
9 in the discussions when the Attorney General and Phil
10 Heymann had gone over to the White House were all
11 present.

12 Q What did Mr. Heymann say to them?

13 A He told them that the Park Police had
14 complained to higher-ups at the Department of
15 Interior that White House personnel were not being
16 responsive or not being cooperative, that the Park
17 Police wanted to withdraw from the investigation, and
18 that he was directing that the FBI take over the
19 investigation. And that he expected everyone to
20 cooperate fully with any requests from the FBI, that
21 he wanted a vigorous and thorough investigation. And
22 he might have said something like left no stone

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1 unturned or something, but he was very explicit in
2 his directions to these people gathered around the
3 speakerphone that they were not in any way to
4 interfere with the FBI's effort.

5 Q Did anyone respond to that?

6 A Phil Heymann was holding the phone to his
7 ear, so I don't know. He wasn't on the speakerphone.

8 Q Did he tell you afterwards that there had
9 been any response?

10 A He said they were scared.

11 Q Now, was it later that day or in the next
12 couple of days that this meeting in which
13 Ms. McFadden appeared took place?

14 A Yes, I believe it was the same day that the
15 FBI went over there and started telling everyone they
16 were investigating obstruction of justice.

17 Q In terms of your understanding of what was
18 being investigated by the FBI at that point in
19 connection with the finding of the note, were there
20 discussions in the deputy Attorney General's office
21 about whether the note actually had been found at the
22 time and place that the White House claimed to have

1 found the note?

2 A I think there were discussions about the
3 delay, after having found the note, to contacting the
4 Department of Justice.

5 Q What were the discussions about the delay?

6 A I think they were discussing what the
7 purpose of the delay was. And I believe someone
8 related to me, either Phil Heymann or David Margolis,
9 part of the purpose of the delay was that they wanted
10 to contact Mack McLarty or the President and just
11 inform them and inform the family that this note had
12 been found before they turned it over.

13 Q Did anyone raise a question during this
14 period of time after the note was -- the existence of
15 the note was revealed to the Department of Justice
16 about whether the note should have been found during
17 the July 22nd review by Mr. Nussbaum?

18 A I don't recall if it came out then or if it
19 came out following press reports, but pretty soon
20 there were newspaper articles that were -- if I'm not
21 mistaken -- raising the question why this note was
22 not discovered in the briefcase.

1 Q Was that discussed in the deputy's office?

2 A I don't recall. I'm sure it was.

3 Q Did anybody express an opinion about
4 whether the note actually had been in the briefcase
5 all along?

6 A I don't recall.

7 Q Did Mr. Margolis talk about having seen the
8 briefcase during the July 22nd document review?

9 A I believe David did at some point say that
10 he had seen his briefcase.

11 Q Did he express an opinion about whether the
12 27 or 28 pieces of paper could have been in the
13 briefcase undiscovered?

14 A I don't believe he did, but David had said
15 on a number of occasions that there was torn paper
16 everywhere in Vince Foster's office.

17 Q You mean all over the office visibly?

18 A He said the man's office was a mess and all
19 his drawers had torn notes and crumpled documents.
20 It didn't occur to me that this would be unusual,
21 that somebody would actually find some torn pieces of
22 paper. From what I had heard about the condition of

1 Vince Foster's office, it was surprising to me that
2 someone had took the time and pieced that note
3 together and not just toss it.

4 Excuse me. Can I take a break?

5 MR. CHERTOFF: Okay.

6 (Recess.)

7 BY MR. CHERTOFF:

8 Q During the period of time after this
9 conference call, these two -- rather, not a
10 conference call, this call to a number of people at
11 the White House by Mr. Heymann, afterwards, who at
12 the deputy's office was involved in supervising the
13 FBI investigation on an ongoing basis?

14 A David, to the extent that the deputy's
15 office supervised the investigation.

16 Q Did they get a line prosecutor, either
17 within the department or within a U.S. Attorney's
18 office, to be involved?

19 A Not that I know of.

20 Q Did you have any conversations with
21 Mr. Margolis during this period of time -- meaning
22 the week of July 26th up until, let's say, the middle

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1 of August -- concerning the potential misconduct that
2 was being looked at in the investigation?

3 A Potential misconduct on the part of --

4 Q White House people.

5 A I'm sure we did. We just -- it's hard to
6 explain, but this was about the most interesting
7 thing that was happening during that period of time.
8 Everyone was talking about it. So I know that we had
9 conversations about it.

10 Q Were there other conversations about the
11 possible obstruction of justice apart from what
12 you've previously testified to concerning the
13 occasions with Ms. McFadden?

14 A Well, there were discussions after the
15 occasion with Nancy McFadden discussing the occasion
16 with Nancy McFadden.

17 Q What were those?

18 A David was concerned that by interjecting
19 herself into the process in the deputy's office, it
20 might appear that he would be influenced by a
21 suggestion from Nancy McFadden or a suggestion from
22 anyone at the White House with whom she is on good

1 relations that FBI agents at the very least should
2 not be telling people that they were investigating an
3 obstruction of justice.

4 Q Did Mr. Margolis indicate he was going to
5 deal with that concern in some way?

6 A Well, he said that it was a concern when he
7 was trying to determine whether or not it was
8 appropriate to call the Bureau, but he had to sort of
9 put it out of his mind and do what he thought was the
10 best thing.

11 Q Any other conversation concerning this
12 incident with Ms. McFadden?

13 A Oh, I'm sure it came up a great deal.

14 Q This concern that Mr. Margolis had about
15 whether this was going to create an appearance
16 because Ms. McFadden had initiated this conversation?

17 A David wondered whether or not Nancy would
18 get into some trouble for having come into the
19 deputy's office and interrupted a meeting and brought
20 this to the deputy's attention in the manner in which
21 she did.

22 Q Do you know whether anyone went to

1 Mr. Hubbell and suggested to him that he ought to
2 keep Ms. McFadden out of it?

3 A No, not that I'm aware of.

4 Q On that occasion around August 10th or
5 August 11th, where it was reported to you that
6 Ms. McFadden had raised the question about putting a
7 lid on the Vince Foster case, did that revive any
8 further conversations about Ms. McFadden's continuing
9 interest to take an interest in the investigation of
10 Vince Foster's office?

11 MR. BRAGA: Just to be clear, I believe it
12 was about putting a lid on the investigation --

13 THE WITNESS: I've lost the train of your
14 question. That reference in my notes was on what
15 day?

16 BY MR. CHERTOFF:

17 Q August 10th or 11th. And I'm asking
18 whether this report about Nancy McFadden raising the
19 Vince Foster case on that date revived the discussion
20 about whether there was a problem with Nancy McFadden
21 taking an interest in that case.

22 A I don't know if I discussed something that

1 minor with David Margolis, and I certainly never went
2 to Phil Heymann about it. I think I made that note
3 to myself with the thought that if I were organized
4 to review my notes, I would raise it the next morning
5 meeting and maybe suggest that it's not such a good
6 idea.

7 Q Did you have any other indication, other
8 than what you've testified about these occasions with
9 Ms. McFadden and the lunch between Mr. Hubbell and
10 Mr. Heymann, that Mr. Hubbell was taking an interest
11 in what was going on in the Foster case?

12 A I'm sure that Web Hubbell was interested in
13 what was going on because Vince Foster was a very
14 close personal friend of his.

15 Q But did you have any indication apart from
16 what you've testified to that he was seeking
17 information in the department about the case?

18 A I know that he spoke with Phil Heymann
19 about it directly, and I know that's the way
20 information was supposed to be passed to Web Hubbell.

21 Q Phil Heymann was going to be the
22 gatekeeper, so to speak?

1 A Well, Phil Heymann and Web Hubbell had a
2 very good personal relationship, and he could
3 determine what information we would pass on and what
4 we wouldn't pass on, and that's the way that
5 information would be passed. But I should also point
6 out that with a staff of something like five in the
7 deputy's office, there just weren't many other people
8 to take on that role.

9 Q I want to show you your note of August
10 6th -- it's on F168 -- and ask you what this refers
11 to.

12 MR. BRAGA: The first full paragraph on
13 that page?

14 MR. CHERTOFF: Yes.

15 THE WITNESS: That referred to our press
16 office. There was a very serious misperception, and
17 it was a misperception that was in large part created
18 by our own press office, that the FBI had been in the
19 lead in an investigation, that the FBI had a full
20 investigation into the possibility of murder.

21 When later a note was discovered and that
22 note was turned over to the Park Police, who, in

1 fact, had an investigation, and we're seen as the
2 lead agency, there was speculation that the FBI had
3 been withdrawn, that somehow an order had been given
4 that the FBI would be withdrawn from the
5 investigation.

6 And later when Phil Heymann directed that
7 the FBI, in fact, take the lead at the request of the
8 Department of the Interior with regard to the
9 handling of the note, the FBI was back in the
10 investigation. And the shorthand for this was they
11 were in at the beginning, out in the middle, in at
12 the end. What do you have to say about that, and
13 that's what reporters were asking.

14 And as I recall, a press release went out
15 or some statement went out that was close to
16 accurate, unlike the previous press release that we
17 had sent out, and it explained that the FBI -- it may
18 have explained that the FBI had a preliminary inquiry
19 open. This was under the jurisdiction of the Park
20 Police, that generally the Park Police was the agency
21 that had a full investigation open and that the FBI's
22 investigation -- I don't know what they termed it at

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1 that point; it may still have been an inquiry -- was
2 done at the suggestion of the Department of
3 Interior. That was accurate.

4 BY MR. CHERTOFF:

5 Q Did Mr. Margolis at any point in time
6 during the period you worked at the Justice
7 Department speculate or give you an opinion about why
8 he thought Mr. Nussbaum had changed the arrangement
9 and made a decision to review the Foster documents
10 himself?

11 A I'm sorry, at any time while I was at the
12 department?

13 Q Yes.

14 A There was always speculation about that.

15 MR. BRAGA: His question is speculation
16 from David Margolis.

17 THE WITNESS: Okay. David had speculated,
18 as I stated earlier, that it's possible that some
19 member of the First Family had objected to detectives
20 rifling through their personal papers just as a
21 matter of -- just a personal point of view. They
22 thought this would be distasteful. I also had asked

1 him, I said do you think there's really anything in
2 there they were trying to hide, and he said I don't
3 know. At one point, there was a press account
4 connecting Mr. Foster with events in Whitewater and a
5 subpoena issued on the Madison Guaranty Trust or
6 Guaranty Bank --

7 MR. FISHMAN: Let me raise a question
8 here. If the speculation had nothing to do with the
9 subpoena being issued by the Department of Justice,
10 that would be one thing, but if the subpoena was
11 issued by the Department and there were conversations
12 that followed that Mr. Margolis may have had
13 knowledge resulting from why a subpoena was issued,
14 I'd like to find out what the answer is before it's
15 put on the record and responded to.

16 MR. CHERTOFF: Do you want to go off the
17 record and get the answer off the record?

18 MR. FISHMAN: I want to discuss it with
19 Ms. Monaco and her attorney to determine if there's
20 any issue here that would have either investigative
21 or Rule 16 implications.

22 MR. BRAGA: We better go outside for a

1 second.

2 (Discussion off the record.)

3 MR. FISHMAN: As I understand the ensuing
4 discussion, I don't believe there is -- that
5 Mr. Margolis had anything to do with the subpoena, so
6 I have no objection to the answer. If it was issued
7 at all.

8 BY MR. CHERTOFF:

9 Q Do you want to get the question back again?

10 A No, I remember the question. I remember
11 David Margolis telling me one morning after he had
12 read the press clippings that he was sort of
13 surprised to learn that a subpoena had been issued --
14 I believe it was a subpoena -- with regard to Madison
15 Guaranty and with regard to Whitewater.

16 And it had happened close in time to Vince
17 Foster's suicide, just before or just after, and I
18 think the newspaper account was speculating that this
19 was a link, that somehow this was a link to
20 Mr. Foster's suicide. And David just expressed
21 surprise. He said I had no idea that a subpoena was
22 being issued with regard to that. And I think he

1 just sort of wondered whether or not Vince Foster
2 knew and speculated that it might have had something
3 to do with his suicide.

4 Q Did Mr. Heymann ever offer an opinion or
5 speculation about why Mr. Nussbaum changed the
6 agreement and insisted that he be the one to review
7 the documents in Mr. Foster's office?

8 A No.

9 Q Did Mr. Adams?

0 A I don't recall.

1 Q Did Mr. Rosenstein?

2 A Rod was around all the time during all
3 these discussions, so it's possible. I don't want to
4 give a definitive answer that no one speculated
5 because we were surrounded by speculation. So it's
6 likely that somebody commented upon something that
7 was raised by a reporter or by some other member of
8 the Department of Justice and said, well, gee, that's
9 kind of interesting.

10 Q Did there come a point in time that you
11 learned from press accounts that some of the
12 documents that had been in Mr. Foster's office had

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1 been moved up to the residential quarters of the
2 White House?

3 A No. I think this is the first I've heard
4 that anything was moved to the residential quarters.

5 Q Did you read in the paper that documents
6 were removed and held in a closet at the White House
7 residence?

8 A There was one definitive account of the
9 events at the White House, which I thought was in The
10 Washington Post, and it contained some fairly
11 accurate information about what had transpired in
12 Bernie Nussbaum's office. It contained maybe an
13 overstatement of the exchange between Cliff Sloan and
14 Scott Salter, and I believe in that press account it
15 contained a reference to a box of documents being
16 taken out. I could be wrong; it could be in a
17 different story, but I remember reading that and
18 thinking that was significant if it were true.

19 Q That would be a box of documents taken out
20 before or after this procedure with Mr. Nussbaum?

21 A I don't recall. I don't know that it would
22 matter because the Department of Justice never saw

1 the documents.

2 Q To your knowledge, did the Department of
3 Justice or the FBI get to look at any of the
4 documents after Mr. Nussbaum had completed his
5 procedure on July 22nd?

6 A I never heard of the Department of Justice
7 being permitted to review any documents.

8 Q Do you know whether the Park Police were
9 ever permitted to review any documents?

10 A No, I don't know. I know that they
11 conducted interviews, and it's certainly possible in
12 the course of those interviews they asked for
13 documents. It's possible people turned them over
14 voluntarily. I don't know.

15 Q Did there come a time when you read in the
16 paper or heard news accounts that suggested that the
17 Department of Justice had supervised Mr. Nussbaum's
18 review of documents on July 22nd?

19 A Yes.

20 Q Did you believe that characterization to be
21 true?

22 A It was definitely not true.

1 Q Did you have discussions with Mr. Margolis
2 concerning this characterization?

3 A I don't recall. It was definitely
4 discussed; I don't recall with whom, and I know that
5 the story was corrected.

6 Q What was the story corrected to?

7 A That, if I recall, that the search and a
8 review of documents was conducted in the presence of
9 officials from the Department of Justice.

10 Q Was that correction made by someone from
11 the Department of Justice calling the reporter?

12 A That correction was made by Carl Stern,
13 who's a very excellent press officer, at the
14 direction of Phil Heymann. So I don't know how he
15 did it, but whatever he did -- he's a former reporter
16 himself -- he corrected it. He put the accurate
17 story out.

18 Q Did you learn who had originally put out
19 the story that it had been supervised by the Justice
20 Department and the law enforcement people?

21 A I believe Carl Stern told me it had come
22 out of the White House press office or their

1 communications office.

2 Q Did anybody, to your knowledge, ever raise
3 the issue of this with the White House press office,
4 about why they had put the story out that way?

5 A Carl Stern told me that the White House
6 press office -- and I don't remember what official he
7 was mentioning -- had been upset that it had been
8 corrected. I shouldn't say upset that it was
9 corrected but upset that there were now two
0 conflicting stories and there was some exchange
1 between Carl Stern and his counterpart at the White
2 House.

3 Q Did you learn what the outcome of that
4 exchange was?

5 A I don't know that there was any outcome.
6 The Department of Justice had taken its position, and
7 it was an accurate one.

8 Q Did the White House continue to take the
9 position, to your knowledge, that the review was
0 supervised by law enforcement officials?

1 A Not to my knowledge. The way Carl
2 presented it to me was that it was just an error on

1 their part and they had sort of been caught in an
2 error. He corrected it, and whenever there's sort of
3 a difference in stories between the White House and
4 the Department of Justice, someone will seize on that
5 and try to make something of it, so certainly there
6 was concern when the Department of Justice came out
7 with something that was slightly different.

8 Q Finally, focusing your attention back to
9 that meeting on or about February 11, 1994 when you
0 were discussing collecting documents and preparing a
1 time line, was there any discussion at that meeting
2 about why the participants -- any of the participants
3 in the meeting felt that Mr. Nussbaum had insisted on
4 reviewing the documents himself?

5 A By February of '94, the dust had settled on
6 all of the whole Foster matter. It was in the hands
7 of the Independent Counsel. We fully expected there
8 would be a Congressional inquiry at that point, and
9 people were most concerned with the fact that Phil
0 Heymann was leaving. It wasn't a time when that
1 would be raised.

2 MR. CHERTOFF: I don't have anything

1 further.

2 MR. COLE: Would you like to take a break
3 before I begin, or would you prefer to continue now?

4 THE WITNESS: I don't need a break unless
5 you do.

6 MR. COLE: No, I'm fine.

7 EXAMINATION

8 BY MR. COLE:

9 Q As Mr. Chertoff indicated earlier, I'm
10 Lance Cole. I'm one of the counsel to the Democratic
11 members of the Committee. What I'd like to do is ask
12 you some questions that in some respects will cover
13 the same territory that Mr. Chertoff has already
14 covered. In doing that, to try to be efficient and
15 to try to avoid just repeating lines of questioning
16 that had already been covered, I may state my
17 understanding of your prior testimony or repeat what
18 I heard you to say. If I am inaccurate in any way,
19 please let me know so we have an accurate record here
20 today.

21 If I could direct your attention back to
22 the set of notes -- I should say typewritten document

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1 that Mr. Chertoff showed you that's numbered 166
2 through 169. And I have an extra copy here if you
3 need to refer to it. Can you tell us when that was
4 prepared?

5 MR. BRAGA: "Prepared" meaning typed?

6 BY MR. COLE:

7 Q Let's break it down and start -- I believe
8 you said your practice was to dictate in the car on
9 the way home in the evening?

10 A Generally, yes.

11 Q And this is a typewritten transcription of
12 that dictation; is that correct?

13 A Yes.

14 Q So do you have a recollection of when this
15 was dictated?

16 A When it was dictated?

17 Q Yes.

18 A Within a few days of the events or perhaps
19 on the same day. I'm not certain in what order they
20 were dictated, but I do recall that I dictated them
21 in July because I marked the tape July '93.

22 Q If I could direct your attention to pages

1 166 and 167, it appears that those pages have entries
2 from several dates in July. The second full
3 paragraph after a redaction begins by "Tuesday, July
4 20th." Do you see that on page 166?

5 A Yes.

6 Q And then the following paragraph begins "on
7 Wednesday"?

8 A Yes.

9 Q And then continuing several paragraphs to
10 page 167 at the bottom, it says "that Friday." Do
11 you see that?

12 A Yes.

13 Q My question is do you know whether these
14 paragraphs were dictated at the same time?

15 A It's entirely possible. I don't recall. I
16 know that when I transcribed them, I typed it up as
17 accurately as I could from what I had dictated. And
18 I obviously didn't take the time to run a spell
19 check. But I don't recall in what particular order
20 they were dictated.

21 Q It appears to me that from the syntax of
22 what's typed here that it was dictated at the same

1 time. I wonder if you could take a minute and look
2 at it and give us your best judgment today as to
3 whether that's the case or not?

4 MR. BRAGA: Any two particular paragraphs
5 or the whole document?

6 MR. COLE: The first two pages of the
7 document, by my reading, appear to have been typed at
8 the same time based on the syntax, the grammar of the
9 paragraphs.

10 THE WITNESS: They were certainly typed at
11 the same time.

12 BY MR. COLE:

13 Q I'm sorry, transcribed at the same time or
14 dictated at the same time?

15 A It's entirely possible. I really cannot
16 recall.

17 Q Do you have any reason to believe that they
18 were not dictated at the same time?

19 A I was dictating all the time, so it's
20 possible that I picked it up and I stopped dictating
21 or started again. I don't know that I could have
22 dictated this much in the 15-minute drive back to my

1 apartment, so it's possible I did it over the period
2 of a few days. I tend to dictate in paragraphs. I
3 tend to dictate that way, so --

4 Q And I believe you testified that you had
5 two dictaphones?

6 A Yes.

7 Q Or two dictating machines, I think you
8 said. And which dictating machine was this dictated
9 on?

10 A My personal one.

11 Q And were these personal notes or business
12 notes?

13 A I viewed them as personal notes, and I
14 would review the tape and decide what I was going to
15 do with it. And as I said, at this period in time, I
16 might at some point relieve the stress I was under by
17 keeping a journal, but I never did that. So normally
18 I would toss these tapes out or dictate over them.
19 In this case I hung on to them because it said July
20 23, and Phil Heymann said we were not to destroy any
21 documents that had any reference to Vince Foster.

22 Q Do you recall when Mr. Heymann indicated to

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1 you that you should not destroy any documents related
2 to Mr. Foster?

3 A I don't know that he used the word
4 "destroy." He would say we would have to turn
5 everything over. Phil Heymann was convinced very
6 early on that there would be a Congressional inquiry.

7 Q Do you recall when he first indicated that
8 to you?

9 A No.

10 Q Would that have been before you transcribed
11 this tape?

12 A Probably not. Probably not.

13 Q So you think you transcribed the tape
14 before he told you -- you said you saved the tape
15 because he told you not to discard anything related
16 to this.

17 A I saved the tape because I thought there
18 might be some relevant information in here that I
19 would offer up. Had I known the notes that I was
20 making would end up in the hands of a Congressional
21 committee, I'm really not certain I would have
22 dictated what I've dictated.

1 MR. BRAGA: She would have at least

2 spell-checked it.

3 THE WITNESS: I would have spell-checked

4 it.

5 BY MR. COLE:

6 Q That comes to my next question. Not about
7 the spell-check but whether you recall when you
8 transcribed these tapes?

9 A It was between when Mr. Fiske was
10 appointed -- as I recall, it would have been between
11 when Mr. Fiske was appointed and when Phil Heymann
12 left.

13 Q So early 1994, it would be fair to say?

14 A That's only about a three-week window.

15 Q So between July or August, you merely
16 retained the tape that --

17 A I dropped it in my desk drawer with a bunch
18 of other tapes.

19 Q Did anyone ask you to search your home or
20 to bring this to the Department of Justice?

21 A I volunteered that after Mr. Fiske started
22 conducting interviews. David Margolis told me

1 that -- I think this was right after he had been
2 interviewed by Mr. Fiske; this would have been in
3 April -- that I was going to be called because I had
4 taken notes at that other meeting. And I said well,
5 I've got some other notes, too, so I'll bring them
6 along. And I already had them typed up.

7 Q Did you type them up yourself?

8 A Oh, yeah. I don't think I would permit my
9 secretary to hand me something that looked like this.

10 Q And when you typed it, did you type
11 everything that was on the tape?

12 A Yes.

13 Q Did you make any edits or additions?

14 A I may have at some point. I typed this up
15 at home on my old personal computer, which is ancient
16 and not compatible with the more advanced DOJ
17 computer, if you can believe that. So when I brought
18 it in, I had to actually upgrade it, and it's
19 possible that at that point in that process somehow
20 things might have gotten moved around a little bit.
21 But I don't recall making any edits after I typed it
22 up. I was pretty conscious of the fact once I typed

1 it up, I shouldn't change it. I looked at it, and I
2 thought -- I don't recall all the stuff that I typed
3 up, but for what it was worth, I turned it over.

4 Q And does the tape from which it was
5 transcribed still exist?

6 A I looked for it, and I don't have it. I
7 must have taped over it. I wouldn't have thought to
8 keep it after I typed up the notes.

9 Q If I could direct your attention to the set
10 of handwritten notes that Mr. Chertoff showed you
11 earlier that are numbered F154 through F159, do you
12 recall -- at the time those notes were prepared, had
13 you transcribed the tape that we were just discussing
14 at that time?

15 MR. BRAGA: I believe she testified earlier
16 that she thinks she did because the reference to the
17 messing-this-up-very-badly, it-was-a-terrible-mistake
18 comment in the typed document refreshed her
19 recollection.

20 MR. COLE: That's what I'd like to explore
21 is the extent to which the handwritten notes reflect
22 or state what's in the typed document, if she has a

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1 more specific recollection of the process that she
2 went through in preparing the handwritten document.

3 THE WITNESS: The handwritten document was
4 prepared at a meeting, and I was really just
5 recording information that everybody else offered. I
6 think the only thing I had to offer at that point was
7 that I had heard that conversation between Phil
8 Heymann and Bernie Nussbaum.

9 BY MR. COLE:

10 Q And the comments or the notations that are
11 in your handwritten notes that are on page F154,
12 those are your notes of comments of others at the
13 meeting?

14 A I'm sorry, I don't know what comments
15 you're referring to.

16 MR. BRAGA: The entries generally?

17 BY MR. COLE:

18 Q The entries generally.

19 A Everything?

20 Q Yes. I'm trying to determine whether those
21 are things that people said at the meeting or your
22 impressions of what you were thinking at the meeting?

1 A This is what people said. There might be
2 some error in my transcription of what people were
3 saying; it's not verbatim, certainly. And there
4 might have been times when I was trying to interject
5 dates because I was thinking we really need to do
6 this chronology that I had in my mind to do for a
7 long time and hadn't done. But all of these comments
8 were being offered by David, Roger, Rod, Phil Heymann
9 and, to the extent that I had anything to add, I
10 added it. I piped in.

11 Q So their statements and your comments were
12 for the purpose of trying to prepare a chronology of
13 events on the dates that are noted in your notes
14 there?

15 A Well, the principal purpose of going
16 through these events was to find all the relevant
17 documents -- in particular phone logs, Phil Heymann's
18 schedules for those days -- and to be able to give
19 the deputy Attorney General a copy of his schedule
20 for those days because he knew at some point he'd be
21 asked where he was, and he would not recall that many
22 months later. And to just see what we could find in

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1 the way of documentation, to put it in a main file
2 that would not be archived and would be ready and
3 available for when you asked for it.

4 Q Did you and the other participants in the
5 meeting have those documents in front of you at the
6 time you prepared your notes of the meeting?

7 A We pulled the file, yes. And I went and
8 pulled phone logs at various points during the
9 meeting. I went out and asked for phone logs.

10 Q And so do those notes reflect the comments
11 that people made after they reviewed the documents
12 that you pulled?

13 A No, I don't recall there really being any
14 time spent on document review. There are only very
15 few documents that were at issue.

16 Q So these are just the best recollections of
17 the group seven months after the fact as to what had
18 occurred in July 1993?

19 A I guess that's accurate, although let me
20 add one thing: We did review phone messages to the
21 extent those are considered documents.

22 MR. BRAGA: There's one entry in the notes

1 where there's two very specific time entries for
2 phone calls, 10:37 and 11:03.

3 BY MR. COLE:

4 Q The reason I'm asking these questions is
5 there's some quotations and some fairly specific
6 statements in there, and since she has testified that
7 the notes were made seven months, roughly, after the
8 events, I'm just trying to get the best understanding
9 I can of the basis for the information that's in
10 there.

11 MR. BRAGA: Sure.

12 BY MR. COLE:

13 Q If I could move to the discussions you had
14 with Mr. Margolis about the search of Mr. Foster's
15 office on July 22nd, and I realize that you've
16 testified to several discussions that you had with
17 him about that search. In particular you testified
18 about a discussion with Mr. Margolis at which he told
19 you about his stepping outside with an FBI agent and
20 discussing documents or files being given to the
21 Foster family's personal attorney. Do you recall
22 testimony to that?

1 A Yes. I believe I said I wasn't certain
2 whether or not they stepped outside, but I thought
3 that was likely given the size of Mr. Foster's
4 office.

5 Q Do you recall which FBI agent, if you were
6 told, that Mr. Margolis had that discussion with?

7 A No.

8 Q Did you know the names of the FBI agents
9 who were present for the search?

10 A I thought Scott Salter was there and
11 Charlie Dorsey might have been there, but I don't
12 know.

13 Q But you don't know which agent Mr. Margolis
14 spoke with?

15 A I'm sure he told me, and I've just
16 forgotten.

17 Q And I believe my notes indicate that you
18 mentioned that the agent told Mr. Margolis that he
19 trusted Mr. Hamilton more than Mr. Nussbaum?

20 A Yes.

21 Q Do you recall him specifically using the
22 name Mr. Hamilton? And by "him," I'm referring to

1 Mr. Margolis since that's who you spoke with.

2 A I understood it to be Mr. Hamilton. I
3 could be wrong on that, and I don't know that he was
4 present -- I don't know.

5 Q That was going to be my next question, was
6 whether you knew Mr. Hamilton was present or not for
7 the search.

8 A Based on that conversation, I kind of sense
9 that he was somewhere nearby, but I don't know on
10 what I base that. I guess it was unlikely that he
11 was present. Perhaps he was.

12 Q And I believe you testified that
13 Mr. Margolis told you he thought it was sad, or words
14 to that effect, that the FBI agent had made that
15 statement; is that correct?

16 A "Sad" is not a word, I think, David would
17 use. I'm not sure how he characterized it, but he
18 was making a point of telling me how unpleasant the
19 situation was and how much tension there was between
20 the White House counsel's office and the FBI that an
21 agent would actually say he would rather have this
22 box of documents turned over to a complete stranger.

1 Q Did he say anything else to you about the
2 discussion --

3 A No.

4 Q -- with the FBI agent?

5 A I don't recall. As I said, he may have.
6 This was really a great topic of conversation, and
7 I've tried to recall as much as I can, but David is
8 the best person to ask that question.

9 Q Do you recall him saying anything more
10 about the reasons for the FBI's views regarding
11 Mr. Nussbaum?

12 A No. It was really just recounted to me as
13 sort of a brief incident in the context of the larger
14 incident.

15 Q Moving to Thursday, July 29, and the
16 telephone call that you were present with Mr. Heymann
17 for with a number of officials in the White House
18 concerning an FBI investigation, you, I believe,
19 testified that you could only overhear Mr. Heymann's
20 end of the conversation.

21 A Yes.

22 Q And he did not have the call on the

1 speakerphone.

2 A That's correct.

3 Q And you testified that you heard
4 Mr. Heymann say that the FBI would be taking over the
5 investigation and that there would be a vigorous and
6 thorough investigation. Do you recall anything else
7 about that call?

8 A Well, I don't recall him saying that they
9 were taking over the investigation. I believe that
10 the FBI had their own inquiry at this point. So I'm
11 uncertain as to what his words were, but he did state
12 that the Park Police wanted to withdraw from the
13 investigation, that the FBI would take it over in the
14 sense that there would be no one else to take it
15 over.

16 Q And it was after that call that Mr. Heymann
17 said to you that the other people on the call were --
18 scared, I think is the word you used?

19 A I think it was before that call. He stated
20 that he wanted them to be scared.

21 Q So your recollection is that before the
22 call he stated to you that he wanted them to be

1 scared?

2 A Yes. He wanted to scare them into
3 compliance so that this problem did not repeat itself
4 once the FBI went over there. Whatever problems
5 there were, the Park Police had raised.

6 Q You also testified that Mr. Margolis told
7 you that, after the search of Mr. Foster's office
8 that there were a lot of torn and crumpled papers in
9 the office. Can you tell me what you recall about
10 Mr. Margolis's comments on that subject?

11 A I think it came up in the context of why
12 did it take so long, and he said you should have seen
13 this guy's office. Every time you open a drawer, a
14 bunch of papers pop out. It was a mess. He just
15 explained to me that the office was not neat and
16 orderly, and they were always finding things in
17 corners.

18 Q Did that come up on more than one occasion
19 with Mr. Margolis, and, specifically, did that come
20 up after the torn note was found as well as after the
21 search?

22 A I can't recall any specific conversation.

1 I'm sure it did come up. The discovery of the torn
2 note was quite a surprise, and I'm sure we did have
3 discussions on how it could be that this note was
4 missed.

5 (Pause.)

6 Q And is it your recollection that
7 Mr. Margolis said to you that he did not find it
8 unusual that they found a torn note because of the
9 number of papers in Mr. Foster's office?

10 A I don't recall if David Margolis ever said
11 that to me. I don't recall if I testified to that,
12 in fact, earlier.

13 Q I'm trying to understand whether that was
14 your conclusion or whether that's what Mr. Margolis
15 said.

16 A It was my conclusion. I was not surprised
17 given the earlier description of Mr. Foster's office.

18 Q You can't recall whether Mr. Margolis had a
19 view that it was surprising that a note had been
20 found?

21 A No.

22 Q Turning to the meeting in Mr. Margolis's

1 office when Ms. McFadden came in to discuss press
2 items on the Foster item --

3 A I'm sorry, press items on the Foster
4 matter?

5 Q Yes, or perhaps you should let me ask you
6 what she said when she came in.

7 A We're talking about --

8 MR. BRAGA: This is the meeting when she
9 burst into Mr. Heymann's office, comes in and there's
10 a meeting in progress?

11 MR. COLE: Yes.

12 THE WITNESS: What did she say?

13 BY MR. COLE:

14 Q Yes.

15 A She said that FBI agents had been
16 interviewing people at the White House, and they had
17 been telling people at the White House that they were
18 investigating an obstruction of justice. That this
19 caused great concern. She indicated there was a
20 press report on a major network news channel. For
21 some reason, I thought it was CBS; I could be
22 mistaken about that. And she indicated that

1 Mr. Hubbell had spoken with Nancy about this and had
2 asked Nancy to go to the deputy's office and check on
3 things, see what was going on, some words to that
4 effect.

5 Q And you were in Mr. Margolis's office --

6 A Yes.

7 Q -- when this happened? And was there a
8 formal meeting underway?

9 A Well, it was a closed-door meeting. David
10 Margolis's office opens up onto a reception area, at
11 least the office he had at that time, and there was
12 one particular person waiting in the reception area
13 who needed a memorandum signed that had to be sent
14 out to the White House that evening, so the door was
15 definitely closed. Whether it was formal in terms of
16 the type of meeting that was on an agenda, no; I
17 don't think so. It was the end of the day, and it
18 was sort of typically the practice we'd gather in one
19 place at the end of the day and see what needed to be
20 done for the next day.

21 Q Do you recall whether that was before or
22 after normal working hours? And by "normal working

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1 hours," I mean 9:00 to 5:00 or 9:00 to 6:00.

2 A They were normal working hours for us, but
3 it would have been after a news report came out
4 because Nancy referenced an evening news report.

5 Q Was it unusual for Ms. McFadden to come
6 into Mr. Margolis's office in that manner?

7 A Yes.

8 Q Was it inappropriate for her to come into
9 his office in that manner?

10 MR. BRAGA: Inappropriate in her opinion?

11 MR. COLE: In her view. I got the sense
12 that she felt that way, and I'm trying to understand
13 if it were after working hours and the door was
14 closed --

15 THE WITNESS: There was a receptionist
16 outside the door who could have called in if someone
17 needed to speak with David or Phil Heymann, so it was
18 unusual in that regard. And perhaps my concern was
19 the memo that had to go to the White House that was
20 being waited on, as I recall, by Gail Hoffman was of
21 serious urgency on a completely unrelated matter.
22 And Nancy coming into the office put herself ahead of

1 that in priority, so that was unusual. Normally
2 Nancy, I think, would call, or Nancy would have the
3 receptionist call in.

4 BY MR. COLE:

5 Q And did she ask Mr. Heymann to do anything
6 specifically?

7 A She did not recommend a specific course of
8 action. She just presented it as a problem that
9 needed to be addressed.

10 Q So she presented it as a problem involving
11 the White House and press coverage of the White House
12 and the Department of Justice that needed attention?

13 A I think it was more that the FBI was sort
14 of raising concern. There was alarm, and that as a
15 result of this now we had this public press report
16 out there. I don't think there was anything that
17 could be done about the press report. It was done;
18 it was out.

19 MR. COLE: I don't think I have anything
20 else.

21 MR. CHERTOFF: I just have a couple of
22 quick things.

1 EXAMINATION

2 BY MR. CHERTOFF:

3 Q Regarding what you were asked about by
4 Mr. Cole on F166 through 169 which you typed, did you
5 type the tape complete, including those elements of
6 the tape that related to different subject matters
7 other than the Foster matter?

8 A Yes, I think I did. This would be a fair
9 amount -- this would be about one whole tape, and I
10 see that a large portion has been redacted.

11 Q And your recollection is that when you
12 typed the tape, there were portions of the tape that
13 were related to things other than the Foster matter,
14 and you typed those nevertheless?

15 A Yes.

16 Q You didn't go through a redaction process
17 in your typing?

18 A No.

19 Q Also, let me direct your attention to, I
20 guess the question you were asked by Mr. Cole
21 regarding what Mr. Margolis had reported to you
22 concerning his conversation with the agent on July

1 22nd about giving documents to Mr. Hamilton in
2 preference to having them stay in Mr. Nussbaum's
3 possession.

4 Let me show you F163, which is a portion of
5 the notes prepared, I think, by Mr. Heymann, which I
6 think you previously identified from their content as
7 probably having been prepared from the meeting of
8 February 11th, on or about February 11th, 1994.

9 Look at the top entry. Does that top entry
10 seem to relate to the incident you're talking about?

11 A Yes.

12 Q And just read it into the record.

13 A It says "give them to family lawyer and get
14 them out of BN's hands."

15 MR. BRAGA: Closed quote.

16 THE WITNESS: Closed quote.

17 BY MR. CHERTOFF:

18 Q Was this episode with the attorney and
19 Mr. Margolis one of the episodes that was recounted
20 on or about February 11th in your meeting?

21 A It must have been. I don't know that I put
22 anything down in my notes about it. It certainly had

164

1 been recounted to me earlier.

2 MR. CHERTOFF: That's it.

3 EXAMINATION

4 BY MR. COLE:

5 Q If I could ask one follow-up question on
6 that. If you look at the bottom of the previous
7 page, F162 --

8 A I think I gave my copy back to
9 Mr. Chertoff.

10 MR. CHERTOFF: I'll give you both pages.

11 THE WITNESS: Phil takes pretty good notes.

12 MR. CHERTOFF: Evidently.

13 BY MR. COLE:

14 Q If I could read into the record at the
15 bottom of the first page it says "BN arrow DM"?

16 A "BN arrow DM."

17 Q And it says "I cannot keep the office
18 secured or documents segregated any longer."

19 A Yes.

20 Q Are you familiar enough with Mr. Heymann's
21 note-taking practices to say whether the notes in
22 quotes at the top of the following page likely go

1 with the BN to DM quote at the bottom of the previous
2 page?

3 MR. CHERTOFF: I object only because I
4 don't know what "go with" means in the context of
5 this question.

6 MR. COLE: Whether those notes -- the
7 quotation at the top of page 163 of "BN to DM,"
8 whatever that means, reference --

9 THE WITNESS: It's my understanding that
10 these are two separate things because I was aware
11 that, at some point after the search, Bernie Nussbaum
12 had expressed some concern that there was work
13 ongoing in Vince Foster's office that he had to
14 redistribute to other members of the White House
15 counsel's office. I don't know if that took place on
16 the 22nd or later, but I believe Bernie Nussbaum did
17 express a concern that there were documents in
18 progress that he just could not keep left in Vince
19 Foster's office. Someone had to work on them. I am
20 not certain when that happened in time. But if this
21 refers to that, then that is separate from the
22 question of whether or not certain documents were

1 going to the family lawyer because I think that the
2 question of documents going to the family lawyer took
3 place during the search.

4 BY MR. COLE:

5 Q So you believe even though the entry at the
6 top of 163 is in quotes that it's not related to the
7 entry in quotes at the bottom of the prior page?

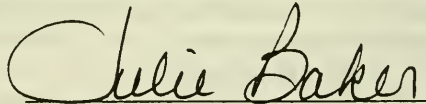
8 A Well, I'm saying based on what I
9 understood, these related to two different things,
10 but that I could easily be mistaken, and it could be
11 that Bernie was telling David with regard to these
12 personal notes I can't keep this office closed. I'm
13 going to have to clean this place out. I'm going to
14 turn these over to the family lawyer. It's entirely
15 possible they were connected. I don't know.

16 MR. COLE: Thank you. Nothing further.
17 (Whereupon, at 4:50 p.m., the deposition
18 was concluded.)
19
20

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

[illegible]

**DEPOSITION OF DEE DEE MYERS
IN RE: S. RES. 120**

THURSDAY, JULY 6, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of DEE DEE MYERS, called for examination pursuant to notice of deposition, at 2:10 p.m. in Room 534 of the Dirksen Senate Office Building, before JANE W. BEACH, a Notary Public within and for the District of Columbia, when were present:

EVERETT C. JOHNSON, JR., Esq.
Majority Deputy Special Counsel
RICHARD BEN-VENISTE, Esq.
Minority Special Counsel
THOMAS B. GRIFFITH, Esq.
Deputy Senate Legal Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

PETER J. ROMATOWSKI, Esq.
STEPHEN M. BYERS, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, NW
Washington, DC 20004-2595
On behalf of the Deponent.

ALSO PRESENT: VINCENZO A. DELEO
TASHIA URLAND
REBECCA SULLIVAN

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EXHIBITS

DEPOSITION NUMBER	IDENTIFIED
Exhibit 1	36, 2773

P R O C E E D I N G S

(2:10 p.m.)

Whereupon,

DEE DEE MYERS

was called for deposition in the above-entitled matter and, having been first duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION

BY MR. JOHNSON:

Q Good afternoon, Ms. Myers.

We have had an opportunity to meet briefly off the record, but for the benefit of the record let me say again who I am and why we are here.

My name is Everett Johnson, and I am one of the attorneys representing the Majority Members of the Special Senate Committee Investigating Whitewater and Related Matters.

What brings us here today is Senate Resolution No. 120 which, among other things, constitutes that Special Committee and authorizes an investigation into certain topics that are set forth

4

in the Resolution.

In particular what we want to talk about today is the investigation into Mr. Foster's death on or about July 20th, 1993. More specifically, the handling of his documents in his office in the days following his death.

So most or all of the questions that I ask you, and all of the questions that Mr. Ben-Veniste may ask you, will relate generally to that topic.

Let me just deal with a couple of preliminaries.

Have you been in the past -- and I don't mean necessarily in connection with this matter, but just generally -- have you given sworn testimony?

A Yes.

Q All of this will seem obvious to you, but let me just refresh our memory about a couple of procedures.

Ms. Beach is our certified shorthand reporter, and she will make a verbatim transcription of the questions that we ask and the answers that you give. In order for her to do that, a couple of

1 things will be helpful.

2 One is if we try not to speak
3 simultaneously. You will often know what the
4 question is long before it is complete, but if you
5 can just let it be completed it will be easier for
6 her to do her job; and if you will, try and remember
7 to respond verbally rather than with other nonverbal
8 kinds of communication, that is also easier for her.

9 I will be as clear as I can be with the
10 questions. Experience tells me I will fail at that
11 sometimes. I will count on you a little bit to tell
12 me if you don't understand the question. I assure
13 you that there is nothing here that is intended to be
14 deceitful or tricky. So if the question seems
15 confusing to you, it is probably because it is
16 confusing; just let me know.

17 If you want to confer with your counsel,
18 feel free to do that. And if you want to take a
19 break at any time, feel free to do that.

20 A Okay.

21 Q Preliminarily, did you meet with anyone in
22 preparation for your deposition testimony here today?

1 A With counsel.

2 Q You're indicating the attorneys who are
3 present with you today?

4 A Peter Romatowski and Stephen Byers.

5 Q Was anyone else present at that time?

6 A Rebecca.

7 Q Anyone other than attorneys in the employ
8 of Crowell & Moring present?

9 A No.

10 Q Other than that meeting with the
11 attorneys, as you've indicated, have you met with
12 anyone else to discuss your deposition testimony?

13 A No.

14 I've discussed it with no one.

15 Q And you have not been contacted, I take
16 it, by any representatives of the White House or the
17 White House counsel's office?

18 A I take that back. White House counsel's
19 office called me to tell me I was on your list.

20 Q Was that Gene Shurbern?

21 A No. She came after I left. I'm drawing a
22 blank.

1 MR. ROMATOWSKI: Marion Nimitz?

2 THE WITNESS: Marion. At which time, I
3 contacted Pete.

4 BY MR. JOHNSON: (Resuming)

5 Q That was just a scheduling telephone call?

6 A Yeah, and that was last, I don't know,
7 before the holiday weekend, Tuesday, Wednesday,
8 something like that.

9 Q Okay. Thanks.

10 Could you take a moment and just take us
11 through your working biography?

12 A I graduated from the University of Santa
13 Clara in 1983.

14 From there I went to work for an
15 organization called Citizens Action League in Los
16 Angeles.

17 In January of '84 I went to work for
18 Walter Mondale.

19 Following the Mondale campaign I went to
20 work for a California State Senator named Art Torres.

21 In the summer of '85 I went to work for
22 then-Los Angeles Mayor Tom Bradley. I worked for

1 Bradley until 1988 when I went to work for Michael
2 Dukakis.

3 Then I worked for Bradley -- Mayor Bradley
4 was up for re-election in '89, so I worked for him
5 the winter of '89.

6 Then I went to work for Diane Feinstein,
7 who was running for Governor of California.

8 Following the Feinstein campaign, I
9 briefly had my own business in communications
10 consulting.

11 I ran Frank Jordan's campaign for Mayor of
12 San Francisco; and went from there to the Clinton for
13 President Campaign in December of '91.

14 I worked on the campaign; then the
15 transition; and went to the White House in January of
16 '93.

17 I left at the end of, December of '94.
18 And in May of this year, '95, I went to work for
19 CNBC, and I am also the Washington Editor of Vanity
20 Fair Magazine.

21 Q I think you said you went to work on the
22 Clinton campaign sometime in 1991?

1 Is that correct?

2 A Correct.

3 Q What was your title and role in the
4 Clinton campaign?

5 A I was the Campaign Press Secretary.

6 Q Prior to joining President Clinton's
7 campaign in 1991, had you had an occasion to meet
8 President or Mrs. Clinton prior to that time?

9 A I first met then-Governor Clinton in, I
10 believe it was June of 1988. Then-Governor Dukakis
11 was scheduled to appear at a major fund raiser in Los
12 Angeles and his wife had to have neck surgery, and
13 Governor Dukakis went home to Massachusetts and
14 Governor Clinton came to speak at a fund raiser in
15 his stead and I met him then for the first time.

16 I met him again a couple of times over the
17 years and didn't know him well. I remember
18 particularly meeting him in the summer of '91. He
19 was in Los Angeles speaking at a conference of some
20 kind.

21 Then he was in LA in September or October
22 of '91 and I went to meet with him to discuss going

10

1 to work for the Presidential Campaign. That was the
2 first time that I met Mrs. Clinton, as well, in the
3 early fall of '91.

4 Q In connection with your joining the
5 campaign?

6 A Correct.

7 Q What was your title and role in Mr.
8 Dukakis' 1988 campaign?

9 A I did press advance, and I then I was the
10 state press secretary in California for both the
11 primary and the general election.

12 Q Okay. And I think you said you were a
13 member -- I apologize; I'm not sure you did say this.
14 Were you a member of the Transition Team?

15 A Yes, I was. I was the press secretary of
16 the transition, as well.

17 Q Okay. And then after the inauguration in
18 January of 1993, you took up employment in the White
19 House?

20 Is that right?

21 A Correct.

22 Q What was your job title at that time?

1 A Press Secretary -- Deputy Assistant to the
2 President and Press Secretary.

3 Q And I realize that this may have changed
4 as time evolved so I ask you to help me with that,
5 but when you first began working in the White House
6 in January of 1993, to whom did you report?

7 A George Stephanopoulos.

8 Q And did Mr. Stephanopoulos report directly
9 to the President at that time?

10 A In reality he did.

11 I don't know if there was a difference on
12 the flow chart.

13 Q And at that time, did anyone report to
14 you?

15 A Yeah. I had a staff of maybe a dozen, or
16 thirteen.

17 Q And these would be deputy press
18 secretaries?

19 A Correct. Deputies, assistants, press
20 assistants.

21 Q Let me jump forward with the same question
22 in time to July 1993, the month of Mr. Foster's

12

1 death.

2 Did you have the same job at that time?

3 A I did.

4 George Stephanopoulos had moved to a
5 different job, and Mark Gearan became the
6 Communications Director, which is the job George
7 originally held, and I reported to Mark at that
8 point.

9 Q I take it that sometime after that your
10 title also changed while still employed at the White
11 House?

12 A My title never changed -- didn't change
13 until September of '94; and then it changed to
14 Assistant to the President and Press Secretary. But
15 my role as press secretary didn't change much,
16 although who I reported to changed regularly.

17 Q You reported to Mr. Gearan, you recall, in
18 July of 1993; and I take it that changed sometime
19 after that?

20 A It didn't change until the fall of '94,
21 actually, when David Gergen had come in around
22 Memorial Day of '93, and there were some sort of

1 structural changes at the White House.

2 Q I think I have this correct that, even
3 though the various titles and reporting
4 responsibilities may have changed, that throughout
5 this entire period of time you were the White House
6 Press Secretary?

7 A Correct.

8 Q In sort of general terms, what are the
9 responsibilities of the White House Press Secretary?

10 A To be the spokesman for the White House
11 and for the President, and to manage the day-to-day --
12 to conduct the daily briefing, or almost every day;
13 and to be responsible for the day-to-day operation of
14 the Press Office and handling the day-to-day needs of
15 the White House Press Corps, which includes
16 everything from the dissemination of information to
17 arranging travel.

18 Q What responsibility, if any, did you as
19 Press Secretary have for press relations out of the
20 First Lady's office?

21 A Virtually none.

22 Q Is there a coordinating responsibility,

14

1 for example?

2 A Sure.

3 The First Lady has her own staff that
4 includes a press secretary who is responsible for the
5 day-to-day management of issues related to the First
6 Lady. For example, the First Lady's schedule, all
7 the things that are specific to her; the issues that
8 she's handling specific to her.

9 On the issues she was handling, I was in
10 regular contact with Lisa Caputo who held and still
11 holds that title, and other people in the office who
12 I talked to on a regular basis.

13 But as a practical matter, issues relating
14 to the First Lady and to the First Lady's office were
15 handled by the First Lady's press office.

16 Q And did Ms. Caputo technically report to
17 you?

18 A No. She reported to Mrs. Clinton's chief
19 of staff.

20 Q Mrs. Williams?

21 A Um-hmmm.

22 Q The White House, I take it, from time to

1 time, issues written press releases as well as gives
2 oral press briefings.

3 Is that right?

4 A Correct.

5 Q As Press Secretary, what role, if any, did
6 you have in the drafting or communication of written
7 press releases?

8 A I approved most everything that went out,
9 although routine matters -- for example, the
10 appointment of somebody who had long been known and
11 was completely noncontroversial would often be
12 approved by one of my deputies; I had two deputies --
13 but generally, as a general rule I approved all the
14 written material that went out.

15 Q I take it you didn't often draft it in the
16 first instance yourself?

17 A Only in cases of particular -- something
18 that I was particularly familiar with or was
19 particularly sensitive, but generally I did not.

20 Q I would like to educate myself just a
21 little bit about practices and procedures, and so I
22 will ask you some general questions about how these

16

1 things were done.

2 MR. JOHNSON: Counsel, I don't mean to
3 refer to any specific event here, but just as a
4 matter of practice.

5 BY MR. JOHNSON: (Resuming)

6 Q You gave, I take it, more or less daily
7 press briefings to the White House Press Corps?

8 A Beginning in June of '93. The first six
9 months George Stephanopoulos had that duty.
10 (Pause.)

11 Or the first four-and-a-half months, I
12 guess. The last week of January, February, March,
13 April, May, the first couple weeks of June.

14 Q What was your practice in terms of
15 preparing yourself for press briefings?

16 How did you get the information that you
17 disseminated to the press?

18 A That evolved somewhat over time.

19 Generally there were two staff meetings in
20 the morning. There was a 7:30 meeting in the Chief
21 of Staff's office, which was -- actually the schedule
22 changed when Leon Panetta took over for Mack

1 McLarty's Chief of Staff -- but generally there were a
2 couple of staff meetings in the morning where the
3 day's schedule was discussed, and anything in
4 particular in the press that might need to be
5 responded to.

6 So usually from about 7:30 to 9:00 I was
7 in staff meetings.

8 At 9:00 o'clock, generally what would
9 happen was the press, who were in the building and
10 wanted to come up to my office for a morning sort of
11 question and answer session, which was an important
12 barometer of what was happening, what they were
13 interested in for the day --

14 Q Can I just stop you there?

15 A Sure.

16 Q That session was, I infer from your
17 answer, informal?

18 A It was informal, although it was on the
19 record; but it was informal. Usually people would
20 just sit around my office, as opposed to a stand-up
21 briefing.

22 Q And by "on the record," we don't

1 necessarily mean that a transcript was maintained?

2 A A transcript was not maintained, but
3 anything I said was attributable to me as myself.

4 Q I'm sorry. I interrupted you. You were
5 telling me how you learned --

6 A Then generally I had a meeting with my
7 staff following the, what we called for lack of a
8 better term, the morning gaggle, at which time I
9 would assign tasks based on what was in the papers
10 that I had read, what the press had asked me about,
11 what I expected was coming up, and I would sort of
12 task that out to my staff to go find answers, draft
13 statements, whatever needed to be done.

14 Then I spent a great deal of time after
15 that reading, talking to people, either on the phone
16 or in person to just ascertain what was happening, as
17 well as -- well, this is strictly in preparation for
18 the briefing -- and then I would usually brief at 1:00
19 or 1:30, depending, unless it conflicted with the
20 President's schedule of course, and then it would be
21 changed.

22 Q And this is what I think of at least as

1 the more formal briefing --

2 A Correct.

3 Q -- with television cameras.

4 A Correct. In the briefing room.

5 Q So if you knew, for example, that you were
6 going to be asked questions about a particular topic
7 at the early afternoon briefing, did you ever
8 yourself ever personally go and talk to others in the
9 White House about what the answer to that question
10 may be?

11 A Of course.

12 Q Within the working environment of the West
13 Wing of the White House, could you go talk to anybody
14 you wanted to talk to?

15 A Yes.

16 Q For example, if you wanted to go in and
17 talk to the First Lady, would it be within your job
18 description to go and do that?

19 A Generally the protocol was that I would
20 talk to somebody on her staff. Depending on what the
21 issue was, if it was a policy matter that somebody
22 was handling, I would talk to that person. If it was

20

1 a political matter that I thought needed to be
2 addressed, I would generally talk to the chief of
3 staff.

4 Q Her chief of staff?

5 A Um-hmmm.

6 Q Similarly, if you wanted to get
7 information that might be in the President's
8 possession, would you speak personally with him, or
9 would you --

10 A Sure. Yeah.

11 Q From time to time, did -- and, counsel, my
12 questions are still very generally and not focusing
13 particularly on the events around Mr. Foster's death.

14 If there was an event in the news,
15 something hypothetical that you'd read about in the
16 newspaper that you thought the White House ought to
17 respond to, was there a particular practice or
18 procedure for doing that?

19 A It was completely dependent on what the
20 subject matter was. But if there was something I
21 thought needed to be responded to, depending on the
22 political judgments of how it should be handled,

1 whether you should wait and respond to a question and
2 have an answer prepared, or whether we should put out
3 a statement, the procedure was to -- it was totally
4 issue dependent -- but, yes, there were ways to get
5 that done. It was something we did on a regular
6 basis.

7 Q I think I have some documents that may
8 reflect that in connection with Mr. Foster's death,
9 and I will come back to those and have you explain
10 those.

11 A Sure.

12 Q Okay. I will do that later in time.

13 Let me ask you now, if I could, to talk
14 about your recollections of July 20th, 1993. That's
15 the day that -- which was a Tuesday -- the day that
16 Mr. Foster actually died.

17 Do you recall whether or not you were
18 working in the White House on that day?

19 A I was.

20 Q What, generally speaking, were your
21 working hours? I realize that they were uncertain.

22 A Generally I arrived at around 7:15, and I

22

1 tried to get out by 8:30; and if I did, that was a
2 good day. But it was very situational on what was
3 happening.

4 Q It was common for you to work late in the
5 evening?

6 A Sure.

7 Q Do you recall what time you left the White
8 House, if you did, on the evening of July 20th, 1993?

9 A Around midnight.

10 Q You had not gone home earlier in the day?

11 A No, sir.

12 Q Ms. Myers, how did you first learn of
13 Mr. Foster's death?

14 A I was in the residence, the ground floor
15 of the residence. The President was taping --
16 actually, he wasn't taping, he was doing it live,
17 "Larry King, Live", and I was watching it on a
18 monitor.

19 Mark Gearan came in and asked me to step
20 out of the room.

21 Then we went down the hall a couple of
22 doors and he told me that Vince Foster had taken his

1 life.
2 Q What time does the "Larry King Show" air?
3 A 9:00 to 10:00.
4 Q So you can be certain it was sometime
5 after nine o'clock that evening?
6 A Correct.
7 Q Do you know more precisely than that?
8 A To the best of my recollection it was
9 around 9:20, something like that; in the second
10 quarter of the show, more or less.
11 Q Were you watching the show with others?
12 A Yes. There was a room -- a number of people
13 were in the room.
14 Q So Mr. Gearan asked you physically to step
15 out, and then he told you?
16 A (Nods in the affirmative.)
17 Q I realize it is now two years later, but
18 as precisely as you can, what do you think he said?
19 A Vince Foster took his life tonight.
20 Q You had the instant impression that it was
21 a suicide?
22 A Mark told me that it was.

1 Q I am going to identify some people, and
2 the question is really the same for each of them.
3 That is, whether or not, before you learned of
4 Mr. Foster's death on July 20th, you would have
5 recognized these people by face. Some of them are
6 obvious.
7 The President and the First Lady,
8 obviously you would have recognized.
9 A Correct.
10 Q Would you have recognized Mr. Foster?
11 A Yes.
12 Q Mr. Nussbaum?
13 A Yes.
14 Q Cliff Sloan?
15 A Yes.
16 Q Steve Neuwirth?
17 A Yes.
18 Q Mr. Gearan obviously you would have
19 recognized.
20 A Yes; of course.
21 Q Also, Mr. McLarty?
22 A Yes.

1 Q William Burton?
2 A Yes.
3 Q Sylvia Matthews?
4 A Yes.
5 Q Craig Livingston?
6 A Yes.
7 Q David Watkins?
8 A Yes.
9 Q William Kennedy?
10 A Yes.
11 Q Maggie Williams?
12 A Yes.
13 Q Patsy Thomasson?
14 A Yes.
15 Q Evelyn Lieberman?
16 A Yes.
17 Q Would you have recognized Mr. Foster's
18 assistant, Ms. Gorham?
19 A No.
20 Q What about Mr. Nussbaum's assistant, Ms.
21 Pond?
22 A I'm not -- I don't know.

1 Q Linda Tripp?
2 A No.
3 Q Okay, I'm sorry. I interrupted you. You
4 were estimating that somewhere in the vicinity of
5 9:20 Mr. Gearan told you that Mr. Foster had taken
6 his life.
7 Do you remember any more about that
8 conversation than that?
9 A Well, that was pretty shocking.
10 I don't remember precisely what was said
11 after that, but we then began to discuss who needed
12 to be notified -- who had been notified; who knew, and
13 who needed to be notified.
14 Q What do you recall about that, if
15 anything?
16 A There is a guard station on the ground
17 floor of the White House residence where the Secret
18 Service officers usually sit, and there are a couple
19 of telephones there.
20 What I recall is being there with Mark and
21 George Stephanopoulos, and Bruce Lindsey -- people were
22 coming and going, so I don't remember who was where

1 exactly when -- Bruce Lindsey was there, I can
2 remember.

3 The first person George wanted to contact
4 was Web Hubbell. Web did not know.

5 Q I'm sorry? I missed the last name.

6 A Web Hubbell did not yet know.

7 Q I should have asked you whether or not you
8 would recognize Mr. Hubbell by face.

9 A Absolutely, yes.

10 I remember, you know, but I don't remember
11 who did that, but Bernie was notified, Bernie
12 Nussbaum was called and people started to arrive
13 downstairs.

14 The President was still in the midst of a
15 live television program, so I -- which was scheduled to
16 have callins -- so I got the producer, the executive
17 producer of the show, Windy Walker, and asked that
18 they screen the calls very carefully because this
19 situation had arisen and we didn't want the President
20 to find out about it from somebody who was monitoring
21 police traffic.

22 Q Your point was that the President not

1 learn live on television?

2 A Correct.

3 And of course at this point he did not yet
4 know.

5 Q Can I take you back through just a little
6 bit of this?

7 A Sure.

8 Q You say that you recalled Mr.
9 Stephanopoulos being with you at the guard's desk in
10 the ground floor of the residence.

11 A (Nods in the affirmative.)

12 Q Did Mr. Stephanopoulos come with Mr.
13 Gearan to notify you?

14 A No. There's a room very near there called
15 the Map Room, and Mark and I stepped into the Map
16 Room. It was only he and I present when he told me,
17 although others were just outside the door and
18 already knew, as far as I could tell.

19 Q Were you and Mr. Foster close?

20 A No.

21 Q And the reason I ask is to ask you what
22 your emotional state was. I know it was shocking and

1 devastating, but would you consider yourself to be
2 distraught or otherwise more emotional than a person
3 ordinarily would be under those circumstances?

4 A No.

5 I was friendly with Vince, and I held him
6 in very high regard, but I would not count myself as
7 one of the people who was particularly close to him.

8 Q I think you said one of the things you
9 discussed was who had been notified. Obviously from
10 your testimony the President had not been notified.

11 Do you know whether or not at this point
12 in time the First Lady had been notified?

13 A I don't recall.

14 Q Was there any discussion among the people
15 who gathered there about whether or not the First
16 Lady needed to be notified?

17 A Not that I recall.

18 Q You mentioned that Mr. Hubbell -- there was
19 a discussion about notifying Mr. Hubbell, and I take
20 it that was done by someone?

21 A George Stephanopoulos.

22 Q You also mentioned Mr. Nussbaum.

30

1 Do you know who notified Mr. Nussbaum?

2 A I don't recall.

3 Q It wasn't you?

4 A No.

5 Q Do any other names come to mind about who
6 should be notified?

7 A No. Mack McLarty was there.

8 I'm sure others were notified, but I don't
9 recall specifically who.

10 Q Did you personally call anyone to notify
11 them?

12 A No. Not that I recall.

13 I'm sure over the course of the -- you
14 mean I told somebody who didn't know, but I don't
15 remember. I shouldn't say I'm sure, but I think it's
16 probably true.

17 Q It seems like --

18 A Yes.

19 Q Who actually did notify the President?

20 A Mack McLarty.

21 When the show finished taping, Mack took
22 the President upstairs into the residence and told

1 him.

2 Q The President returned from the studio?

3 A The taping was in the library on the
4 ground floor of the residence.

5 Q I see. I understand.

6 And you were not present when that --

7 A No. Just Mack and the President.

8 Q Other than the discussion that we've been
9 talking about, I take it all occurring in the
10 residence of the White House, what's the next thing
11 that you remember happening on that evening?

12 A I don't recall the exact sequence, but I
13 believe that the next thing I did was went -- Bill
14 Burton, who was Mack McLarty's sort of executive
15 assistant, was also around.

16 Again people were in and out, so I don't
17 recall exactly who was what or when, but Bill and I
18 then at some point ended up in the Chief of Staff's
19 suite. There was a reception area outside the
20 chief's office, and we went there to talk -- speak with
21 the Park Police to find out what they were saying; to
22 find out what standard operating procedure -- if there

32

1 is a standard operating procedure under such
2 circumstances, what it would be; were they receiving
3 any press calls? How were they handling them? How
4 would they handle them when, inevitably, news of this
5 became public?

6 Q And when you say the Park Police, are
7 these Park Police who are routinely stationed at the
8 White House? Or someone who had arrived recently?

9 A No. The Park Police -- these were the
10 people who patrol -- I don't know that there are Park
11 Police at the White House. There are Uniformed
12 Secret Service Agents.

13 But the Park Police had found Vince's
14 body, and I don't remember exactly how I knew that
15 they were the lead agency on this, but they were and
16 we wanted to get in touch with them. So we sort of
17 went down there to do that.

18 Q I think the thing that confused me is I
19 had the impression that they were physically resent.

20 Did you call them on the telephone?

21 A Yes. I'm sorry, yes.

22 Q It's my fault.

1 MR. ROMATOWSKI: You called them on the
2 phone; they were not physically present?

3 THE WITNESS: They were not physically
4 present. We went down to the office and phoned their
5 headquarters, or wherever they work out of.

6 Burton had a number for them, and we
7 talked to their PR people.

8 Q Okay. What did you want?

9 A I don't remember.

10 I do remember what we -- we were seeking
11 information from them, though, and we were careful to
12 let them know that we simply wanted to know what they
13 were doing, as opposed to giving them any
14 instructions. But I don't remember how they said
15 they were going to handle it.

16 Q Is the "it" here the investigation, or the
17 disclosure --

18 A The disclosure of Vince's death.

19 Q I take it you don't recall today who you
20 spoke with at the Park Police Headquarters?

21 A No.

22 Q Was it just the person who answered the

1 phone? Or did you say --

2 A I think we tried to get -- I don't remember
3 specifically, but I think we looked for the person
4 who would be in charge of public affairs who would be
5 there at 10:00 or whatever time it was. It was
6 certainly after 10:00 because the President had
7 finished Larry King.

8 Q In this conversation with the Park Police,
9 were you and Mr. Burton both on the phone?

10 A I don't remember. I don't think we were
11 ever both on the phone together, but I think he had
12 spoken to them once, and I think I spoke to them
13 once, but I am not entirely sure.

14 Q In your conversations with the Park Police
15 was there any discussion about Mr. Foster's office,
16 the contents of Mr. Foster's office, or anything of
17 that kind?

18 A Not that I recall.

19 I don't believe so.

20 MR. JOHNSON: Okay. Why don't we take a
21 very short break and take five minutes now and I will
22 look through those notes, and come back at ten to

1 3:00. Is that suitable?
2 MR. ROMATOWSKI: Fine.
3 (Whereupon, a brief recess was taken.)
4 BY MR. JOHNSON: (Resuming)
5 Q Why don't I divert for a second here and
6 ask you just to identify some documents that your
7 counsel has been kind enough to provide.
8 A Sure.
9 Q Let me just state for the record that
10 these bear document production numbers --
11 Counsel, is that "S"?
12 MR. ROMATOWSKI: I think that is right.
13 "S" four zeros, and then a digit. And the digits
14 are --
15 BY MR. JOHNSON: (Resuming)
16 Q 1 through 15, it appears.
17 Ms. Myers, just tell us what these are, if
18 you will, not individually but just generally.
19 A These are pages from notebooks that I kept
20 sort of as a routine course of business when I was at
21 the White House, generally jotting down facts or
22 questions that I thought were relevant; either

1 seeking answers to them, or just trying to ascertain
2 the details of a policy or an event that would later
3 need to be relayed to the press.
4 Q And the cover page of the document bearing
5 document production No. 1, is dated July 15th, 1993.
6 Is that your handwriting?
7 A Yes, it is.
8 Q And is it safe to assume that the notes
9 that follow that are things occurring on or after
10 July 15th, 1993?
11 A Yes.
12 Q Let me ask you now to just take a look at,
13 in the same exhibit --
14 MR. JOHNSON: And we will call this, Jane,
15 Deposition Exhibit No. 1.
16 (The document referred to
17 was marked Myers Deposition
18 Exhibit No. 1 for
19 identification.)
20 BY MR. JOHNSON: (Resuming)
21 Q -- the first actual page of handwritten
22 notes, which bears the document production number 2,

1 I notice that the pages following the cover sheet
2 aren't individually dated.

3 Is there any way for us to know today on
4 what date these notes were entered, other than some
5 time after July 15th?

6 A Judging by the content, I can generally
7 ascertain it to within a day or two; but beyond that,
8 I don't have any way to guarantee it.

9 Q Was it your practice to make the notes
10 contemporaneously? I mean, every day you would --

11 A Generally I jotted in these notebooks,
12 yes, on a daily basis.

13 Q And did you personally review your
14 notebooks for the relevant period for responsive
15 information? Or did your counsel do that?

16 A I handed over the -- I gave the notebooks
17 for the period in question to counsel, and they went
18 through and pulled out the ones they thought were
19 relevant.

20 Q So they have actually seen the entirety of
21 that --

22 A Correct.

1 MR. ROMATOWSKI: Let me mention -- you
2 mentioned "responsive documents." Ms. Myers doesn't
3 have a subpoena, but we understand there has been a
4 document request to the White House, and we know the
5 general subject of your interest. So when we
6 recognized that she had documents that treated a
7 subject that we thought you would have an interest
8 in, we produced these voluntarily.

9 But they are responsive in that sense that
10 they pertain in some fashion to the subject of
11 Vincent Foster's office and handling of documents in
12 Vincent Foster's office.

13 MR. JOHNSON: Fair enough. You have
14 actually seen the written request to the White House?

15 MR. ROMATOWSKI: You know, I don't think I
16 have, honestly.

17 MR. JOHNSON: Why don't we just go off the
18 record a second.

19 BY MR. JOHNSON: (Resuming)

20 Q Let's look at page 2. There are three
21 entries at the top of this page. I won't ask you
22 this every single time, but let me just ask it once.

1 Is all of the handwriting in these
2 documents your own handwriting?

3 A Yes, it is.

4 Q The three entries at the top of the page
5 seem to me to say: How long will it take computer
6 search files and records and alleged Wash Times --
7 which I take to be a reference to The Washington
8 Times.

9 What are those entries concerning, if you
10 know?

11 A I don't recall. I don't recall writing
12 them. I can guess, but I don't recall anything
13 specific.

14 Q What would be your best guess?

15 MR. ROMATOWSKI: Well, do you really want
16 a guess?

17 MR. JOHNSON: Only if it leads to
18 something better.

19 THE WITNESS: In reviewing these, I think
20 generally almost everything written on these pages is
21 related to something about Vince Foster's death. So
22 how long will it take? I don't know whether that was

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1 a reference to the investigation, or to an autopsy,
2 or what. I can't recall with any certainty.

3 "Computer search files and records." I
4 don't know. I know certainly that there was an issue
5 of would the computer in his office be searched?
6 Would files and records in his office be searched?

7 Again, it is speculation. I don't know
8 for sure. I have no idea what the alleged Washington
9 Times -- I can guess, but not with any specificity.

10 BY MR. JOHNSON: (Resuming)

11 Q Let me focus on "computer search files and
12 records." Even though you can't be certain, I think
13 you said that you recall there'd been a discussion
14 about whether there would be a computer search of his
15 files and records.

16 Is that correct?

17 A It was I think a question that had been
18 put to me by the press.

19 Q So if that's the case, I would assume
20 therefore that this entry was made sometime after the
21 evening of July 20th?

22 A I think that's -- again, I don't know for

1 sure, but I think that is very likely.

2 Q Prior to that question being put to you by
3 the press, do you remember there being any
4 discussions in which you participated about what, if
5 anything, in Mr. Foster's office would be searched?

6 A I don't remember the chronology of what
7 happened first.

8 Q Is it, generally speaking in these notes,
9 do these reflect -- do all of these entries reflect
10 questions put to you by the press? Or do they
11 reflect other notes?

12 A No. It's a compilation of questions put
13 to me by the press; questions I think they might ask;
14 facts that I pick up throughout the day; tick-talks
15 about events that happened given to me by other
16 people; and I don't really distinguish between those
17 sort of sets of particular entries that I might have
18 made.

19 Generally that's what I kept the notebooks
20 for, and generally that's in them.

21 Q So the only way for us to know today what
22 any particular entry reflects is the possibility that

1 you may actually remember it; but otherwise, there is
2 no way, by looking at the documents, to know?

3 A No. That's correct.

4 Q Look at the sort-of-below-the-line on
5 still page 2 of Deposition Exhibit No. 1. It says
6 "Park Police conducting a routine investigation to
7 confirm their prelim -- which I take to be
8 preliminary -- inves, investigation; interview various
9 staff members; look into Vince's office.

10 Then it says Justice Department, Park
11 Police.

12 Can you shed any light on what these
13 entries mean?

14 A Again, I don't recall making -- I don't
15 think I recall making any of the entries in here in
16 particular, specifically writing it down and
17 specifically what it was in reference to.

18 This looks to me like a description of
19 what the Park Police was doing -- how to characterize,
20 probably, for the press what the Park Police was
21 doing. It was conducting a routine investigation;
22 trying to confirm their preliminary sort of decision

1 that it appeared to be a suicide, which is what they
2 said, and they needed aftermath.

3 They planned to interview various staff
4 members. They planned to look into Vince's Office,
5 although certainly the details of that aren't spelled
6 out here.

7 I don't know what the Justice Department
8 reference was at that point, although they later
9 became the point of contact for investigating
10 agencies. But again I don't remember when these were
11 written so I'm not sure what the context might have
12 been.

13 Q Putting the document aside for a moment,
14 you were telling me that on the evening of the 20th,
15 you and Mr. Burton spoke with the Park Police. And I
16 think the last thing before we broke that I may have
17 asked you is whether or not there was any discussion
18 about Mr. Foster's office in your conversations with
19 the Park Police.

20 A And I said, not that I recall. I don't
21 believe so.

22 Q What's the next thing that you recall

1 happening on the evening of the 20th?

2 A There were two other sets of things that I
3 recall. One was being in the Chief of Staff's office
4 suite area, and Sylvia Matthews at some point came
5 down. And I don't remember exactly how this phase
6 was initiated, but she worked on the second floor of
7 the West Wing near the counsel's office in the NEC
8 offices, and she came down -- I don't remember whether
9 she came down to see what was happening, or whether
10 she could help, but she came down at one point and
11 reported that the cleaning people were upstairs and
12 that they were collecting trash and cleaning offices,
13 and did we want to preserve the trash in Vince's
14 office.

15 And I don't recall who was actually --
16 exactly who was there at that point, but she went
17 back upstairs and -- and may or may not have been with
18 somebody; I don't recall -- and came back with a
19 plastic bag of trash from Vince's office, which she
20 had gone through.

21 I don't recall. I think my recollection
22 is that she got it off the maid's cart, but that may

1 or may not be accurate.

2 Nonetheless, she came back. She had
3 looked through it and reported that it contained --
4 that she said it looked like he cleaned out his
5 wallet. There were credit card receipts and a few
6 other things in there that were in the trash that
7 were in his trash bag.

8 So we ended up leaving the trash in Roy
9 Neal's office, who was then Deputy Chief of Staff,
10 overnight.

11 Q I think we had figured out that your
12 conversation with the Park Police was some time after
13 10:00 because the President was off the Larry King
14 Show.

15 Approximately what time did the events
16 that you've just described take place on that
17 evening?

18 A I don't recall exactly, but it would be
19 some time -- Mack, as soon as the Larry King Show
20 ended, which was 10:00 o'clock, Mack took the
21 President upstairs. I don't recall the exact chain
22 of events.

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1 I do know that about 20 minutes later he
2 came down, and he and Mack and Bruce Lindsey then
3 went over to the Foster residence. They left the
4 White House.

5 Q When you say "he" came down, you mean "he"
6 the President?

7 A He, the President, correct.

8 Q And Mr. McLarty and Bruce Lindsey.

9 A Correct.

10 I was there when they walked out, but I
11 may have gone into the West Wing and then back to the
12 residence. It's a short walk.

13 So all of this transpired between probably
14 10:00 and 11:00, or perhaps some time shortly
15 thereafter, 11:30.

16 There was also -- people were gathering
17 somewhat in Mark's office to discuss, from the White
18 House's perspective, how to deal with press
19 inquiries; whether we should put out a statement.

20 David Dreyer was charged with drafting the
21 statement over the President's name.

22 So there were a lot of people sort of

1 going back and forth. I don't remember the exact
2 sequence.

3 Q The President left the White House to
4 visit Mrs. Foster, your guess is, in the vicinity of
5 12:30 -- I mean, 10:30 to 11:30?

6 A Probably a little bit before, 10:40.

7 Q Did you speak with the President before he
8 left?

9 A There was a group of people there, but -- we
10 spoke with him, but I didn't have a one-on-one or a
11 personal conversation with him. I don't recall him --
12 it was more factual. It was more a question of, do
13 we have to notify the pool?

14 Q The "pool" meaning?

15 A The press pool.

16 The President, almost without exception,
17 never leaves the White House without notifying the
18 press pool, but the decision was made that under
19 these circumstances that wasn't necessary.

20 Q I take it, in the conversation in which
21 you were present with the President, there was no
22 discussion about Mr. Foster's office or a suicide

1 note or anything of that kind?

2 A No.

3 Q And you were earlier describing events
4 that took place over some period of time in Mr.
5 Gearan's office. Let me see if I can get your best
6 memory about who was in there.

7 You were obviously there.

8 Was Mr. Gearan there?

9 A Um-hmmm. In and out. Mostly in, I think.

10 Q Who else do you recall?

11 A George Stephanopoulos was in and out.

12 Ricki Sideman was there.

13 David Dreyer.

14 Bernie, I think -- you know, everybody who
15 was there sort of filters through.

16 Q By "Bernie" you mean Mr. Nussbaum?

17 A Bernie Nussbaum.

18 Q Did you see --

19 A Bill Burton.

20 Q I didn't mean to interrupt you.

21 A No, it's all right.

22 Q Did you see Ms. Williams that evening?

1 A Not that I recall.

2 Q What about Ms. Thomasson?

3 A I don't remember.

4 Q As only lawyers can do, does that mean
5 it's possible that you don't remember, or you don't
6 think that you saw her?

7 A I don't remember. It's possible, I
8 suppose.

9 Q What about Mr. Watkins?

10 A I have a very vague recollection. It's
11 entirely possible, but I don't specifically remember.
12 It makes sense to me that he would have been around,
13 but I don't remember.

14 Q Mr. Kennedy?

15 A Not that I recall.

16 I spoke -- I don't think I spoke to Bill,
17 but I think I spoke to Craig Livingstone because the
18 two of them at one point were headed out to the
19 hospital to identify Vince Foster's body.

20 Q When you say you spoke with Mr.
21 Livingstone, do you mean in person or by telephone?

22 A Telephone.

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1 Q So he was not in the White House?

2 A Not when I spoke with him. And I don't
3 remember seeing him that night.

4 Q Did you see Evelyn Lieberman that night?

5 A No.

6 Q Did you see Mr. Neuwirth or Mr. Sloan?

7 A I don't remember seeing either of them.

8 Q Now you said that Ms. Matthews suggested
9 that the cleaning people were up on the second floor?
10 Do I have that basically right?

11 A (Nods in the affirmative.)

12 Q And her question was whether or not the
13 trash from Mr. Foster's office should be retrieved?

14 A Yes.

15 Q Am I right about that?

16 A (Nods in the affirmative.)

17 Q Do you remember anything more about that
18 discussion?

19 A Nothing specific.

20 Q And then I take it she left the
21 Communications Office and came back some time later?

22 A She was -- I don't remember seeing her in

1 the Communications Office. She was in the Chief of
2 Staff's office.

3 Q That's what you said before. I just
4 misspoke.

5 How long was she gone?

6 A I don't recall.

7 Q You also said that you had the impression
8 that she had recovered it from one of the trash bins
9 that the cleaning people had?

10 A Um-hmmm.

11 Q That's your impression because your best
12 recollection is that's what she said?

13 A Yeah, and I don't remember the specific
14 conversation, but that's what my sense and my memory
15 of the evening is, that she got it from the trash
16 people.

17 Q Had she already been through the trash by
18 the time it returned back to the Chief of Staff's
19 office?

20 A Yeah, to the best of my recollection she
21 had, because she described the contents when she came
22 back. And again, I think she may have been work

1 somebody, but I don't recall.

2 Q Does your mind's eye see a man or a women?

3 A (Nods in the negative.)

4 Q She'll need you to say "no."

5 A No.

6 Q How substantial were the contents of the
7 trash bag?

8 A Not particularly --

9 Q Did you look at them?

10 A No. I mean, they were in a see-through
11 plastic bag, so I could see there wasn't -- you know,
12 they're small bags about the size of your average
13 office trash can. You could see that there were
14 slips of paper in there, but nothing -- there wasn't a
15 lot of trash.

16 Q And I think you said Ms. Matthews said
17 there were credit card receipts and other things in
18 there?

19 A Um-hmmm. As I remember her saying, it
20 looked like he may have cleaned out his wallet.

21 Q Was there any discussion about why it
22 would be a good idea to recover the trash?

1 A I don't remember any conversation about
2 it. My sense is that it was sort of self-evident.

3 Q Self-evident because?

4 A I don't know that we discussed it. I
5 mean, in my mind it was to preserve what might have
6 been in Vince's office to try to determine if there
7 was any reason that we could discover anything about
8 why he had taken his life.

9 Q It was obvious to you that it was
10 important to preserve the contents of the offices?

11 Have I said that right?

12 A Yeah. It was obvious to me that we should
13 keep his trash from being thrown away.

14 Q And I think you said you placed the trash
15 in Mr. Neal's office?

16 A Correct.

17 Q Did anyone go through it? Or did they
18 just kind of take the bag from Ms. Matthews --

19 A I didn't see anyone go through it.

20 Q Is there any particular reason that you
21 put it in Mr. Neal's office, other than it was there
22 and available?

1 A It was there, and Roy said he would lock
2 it.

3 Q Was Mr. Neal there?

4 A I guess he was -- or somebody was. I might
5 have been Bill -- I should say that. I don't recall.
6 But there was a discussion about it that that door
7 locked. I don't remember if it was Roy, or if
8 perhaps Burton had a key to his office. I don't
9 remember. But my recollection is that that office
10 would be locked and the trash would be safe there
11 overnight.

12 Q Did Ms. Matthews say anything else when
13 she returned about what, if anything, she had seen up
14 on the second floor?

15 Did she say, hey, there were people in
16 there? Or there was no one in there? Or anything
17 like that?

18 A I don't remember.

19 Q While in the Chief of Staff's office that
20 evening, do you recall any discussion among anyone
21 about whether or not Mr. Foster's office should be
22 sealed or secured?

1 A I spoke to Bernie Nussbaum. Bernie, to
2 the best of my recollection, sort of came in and out
3 and in and out. He came down at one point and said
4 he had looked around on the surfaces in Vince's
5 office to see if he'd left a note, but that he hadn't
6 found anything.

7 Then at some point he said -- somebody said
8 the office would be locked and secured overnight, but
9 I'm not exactly sure what the context of that
10 conversation was. But I do remember -- and I believe
11 it was Bernie, but I'm not entirely sure -- saying that
12 the office would be locked.

13 And it is my impression that there is an
14 alarm on that office, although -- that it would be
15 locked and alarmed -- although I don't really know if
16 there's an alarm on that office. But that was my
17 impression from the conversation that evening.

18 Q Just on that last point, you recall
19 thinking that the office was alarmed. Today you're
20 not certain whether or not it was alarmed, but your
21 thought was that it had an alarm?

22 A Right. And that my impression of that,

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1 whatever that conversation was, my impression was
2 that Vince's offices would be locked and alarmed once
3 everybody -- you know, that night, and it would be
4 secured overnight, or whatever.

5 Q Mr. Nussbaum, I think you said, stated --
6 was he speaking to you personally, or was he speaking
7 to everyone in the room when he described that he had
8 looked for a note in Mr. Foster's office?

9 A I don't recall.

10 Q And I think what you said is he looked on
11 the surfaces to see if he had left a note, but hadn't
12 found anything.

13 A Right.

14 Q Is that basically right?

15 A Um-hmmm.

16 MR. ROMATOWSKI: Can I ask -- can I help
17 here? Are these his exact words? Or is this the
18 substance of what you recall?

19 THE WITNESS: It's the substance. I don't
20 remember his exact words.

21 BY MR. JOHNSON: (Resuming)

22 Q Is it clear in your mind that Mr. Nussbaum

1 said he only looked at the surface, as opposed to --

2 A That was my impression, as opposed to say
3 going through files or something like that.

4 Q Your impression was that he had not gone
5 through the files?

6 A Correct.

7 Q Did Mr. Nussbaum give any indication about
8 how long he had been in Mr. Foster's office?

9 A No.

10 Q Did you have an impression?

11 A No.

12 Q Did Mr. Nussbaum say whether or not anyone
13 else had been in Mr. Foster's office?

14 A Not that I recall.

15 Q And what do you recall that Mr. Nussbaum
16 said about locking the office, or securing the
17 office?

18 A I don't remember exactly what he said.
19 Again, all I can tell you is what my impression
20 was based on this sort of series of conversations,
21 or whatever was happening that night. My impression was
22 that the office would be locked and alarmed.

1 My impression was also that that was sort
2 of routine that the counsel's office was always
3 locked and alarmed at the close of business.
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1 My impression was that the office would be
2 locked and alarmed.

3 My impression was also that that was sort
4 of routine that the counsel's office was always
5 locked and alarmed at the close of business.

6 Q Do you recall whether or not anyone asked
7 Mr. Nussbaum whether he had locked the office or how
8 the topic came up?

9 A I don't.

10 Q You don't have any more recollection about
11 it than what up have told us so far?

12 A No.

13 Q All right.

14 What is the next thing you recall about
15 that evening?

16 A Being in the communications office and in
17 Mark's office, Mark Gearan's office, and discussing
18 how to handle the public release of the information.

19 I don't remember now whether we started
20 getting calls or whether we put it out cold. I don't
21 remember.

22 Nonetheless, as I said, I think I believe

1 it was David Dreyer who drafted a statement over the
2 President's name.

3 I believe that we, after contacting, when
4 the President came back from the Foster residence, I
5 believe it was when he came back from the Foster
6 residence, we called him and ran the statement by
7 him, and he approved it.

8 Then we put it out.

9 Q Do you have any recollections today about
10 what time of day that was?

11 A Well, I remember going home, I believe it
12 was around midnight. I don't recall exactly, but I
13 believe it was around midnight when I left.

14 Ricki Sideman gave me a ride home, and I
15 believe it was around midnight when we walked out.
16 So this would now be between 11:00 and 12:00.

17 Q Anything else happen on that evening in
18 connection with Mr. Foster's death that you recall?

19 A No.

20 Q Your best memory is that you left the West
21 Wing sometime in the vicinity of midnight?

22 A Right.

1 Q Do you have any understanding today of
2 who, if anyone, remained there after you left?

3 A I don't.

4 I think -- I don't.

5 Q I take it, therefore, you don't know
6 whether or not Mr. Nussbaum had already gone home or
7 whether he was still there?

8 A Yeah. I don't recall.

9 Q If I asked you that same question with
10 respect to all the people we have talked about
11 before, you just wouldn't recall?

12 A The only person I remember with certainty
13 is Ricki Sideman because she gave me a ride.

14 Q Okay.

15 When you left the White House at around
16 midnight on the 20th, did you have any understanding
17 at all about whether or not the First Lady had been
18 notified of Mr. Foster's death?

19 A I don't -- I just don't recall. I don't
20 remember discussion about her or not having a
21 discussion about her. Just -- I just don't recall.

22 Q She was out of town, wasn't she?

1 A Yes. In Arkansas.

2 Q All right.

3 What about the next day, the 21st, do you
4 recall anything about Mr. Foster's death and the
5 investigation into that death on the 21st?

6 A I don't recall the sequence of events very
7 clearly, but I remember a couple of things.

8 I remember going into work early. I
9 remember --

10 Q Earlier than your normal 7:30 time?

11 A Yeah.

12 I think I anticipated a busy day.

13 I remember the President wanted -- he did
14 two things. One, he made a public statement. He
15 made a statement to the press pool in the corridor
16 outside the Cabinet Room.

17 I believe the press was in the Rose
18 Garden, and he made a statement about Vince, about
19 Vince's death, and said -- I am sure there's a
20 transcript of it somewhere -- but that sort of
21 expressing his sorrow.

22 Then he wanted the staff gathered in 450,

1 which is a kind of theater-style room on the fourth
2 floor of the Old Executive Office Building.

3 At that gathering Bernie Nussbaum spoke,
4 the President spoke, and somebody else, but I can't
5 remember who. Anyway ...

6 Q That was early in the morning of the 21st?

7 A I don't remember what time. It probably
8 wasn't early. We never did much early in the morning
9 around there.

10 But it was kind of, my recollection is, it
11 was earlier in the day as opposed to the late
12 afternoon.

13 Q Before noon sometime?

14 A No, but before -- before the afternoon. I
15 don't recall.

16 Q When you say the staff was to be gathered,
17 which staff are you referring to?

18 A I think anybody that worked in the
19 complex.

20 I don't remember what the exact
21 instructions were, but it seems to me the room was
22 crowded, and anybody that wanted to come was invited.

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1 Q When you said you arrived at the White
2 House early that morning, did you drive to the White
3 House?

4 A No. I didn't have a car.

5 Q Did you take public transportation?

6 A I took a cab.

7 Q Where did you typically enter the White
8 House -- strike "typically."

9 Do you remember where you entered the West
10 Wing that morning?

11 A I don't remember walking in that morning.
12 I entered the West Wing every day through the
13 northwest gate.

14 Q Then did you go in through the basement
15 entrance or the VIP entrance that day?

16 A The door to the west lobby.

17 Q Okay.

18 Did I misspeak if I sometimes called it
19 the VIP entrance? It's not the basement entrance.
20 Correct?

21 A It's not the basement entrance. We always
22 called it the west lobby. I'm sure it has many

1 names.

2 Q At any time on that morning, do you recall
3 seeing Craig Livingstone?

4 A I remember seeing Craig. My memory of
5 this is pretty fuzzy, and I certainly couldn't at
6 this point put a particular time to it.

7 I think that's probably right, but I'm not
8 entirely sure. Again, Craig had identified the body.
9 Craig, I believe -- I'm sure you guys have the facts on
10 this -- had been notified by the Park Service police
11 and was probably one of the first people in the White
12 House to know.

13 Craig was generally, as a general rule,
14 was very good about debriefing me on things that he
15 knew about, things that he thought there would be
16 press questions about. So I do remember speaking to
17 him about the events of the night before.

18 But I don't remember exactly when it was,
19 and I don't remember any details about -- specific
20 details about the conversation.

21 I seem to remember him in my office.

22 Q Sort of have a visual image of that?

66

1 A Um-hmm.

2 Q In that visual image, he is alone?

3 A Yes.

4 Q I take it you didn't see Mr. Livingstone
5 at any other time on that morning? For example, you
6 didn't see him removing any boxes or shredding any
7 documents or anything like that?

8 A Not -- no. Uh-uh.

9 Q Do you remember anything else about the
10 21st? There was press briefing later that day and we
11 have a transcript of that. But other than the press
12 briefing?

13 A Uh-uh. No.

14 Q There was a briefing at the White House on
15 the morning, I believe, of the 21st by the Park
16 Police on the topic of the results of their
17 preliminary investigation.

18 Did you attend that briefing?

19 A On the 21st? The morning of the 21st?

20 Q I believe it was the morning of the 21st.

21 A On the results of the autopsy?

22 Q I didn't mean to say the autopsy. Just

1 the results of their preliminary investigation; they
2 just sort of reported what they knew so far.

3 A Oh.

4 I can't -- I don't have any recollection of
5 being there, but I can't imagine that I wasn't if it
6 happened. I'm sure it did. I mean you say that it
7 did. But I don't remember it specifically.

8 Q Okay.

9 Did you at any time on the 21st learn that
10 the Park Police had arrived within the White House
11 complex to interview staff members or do any other
12 thing?

13 A It sounds vaguely familiar, but I don't
14 remember specifically learning about it.

15 Q Okay.

16 Let me jump forward now to the 22nd.

17 Do you remember anything about that day?

18 A Well, in kind of reviewing things, I
19 remember I certainly remember that that was the day
20 that the audit or whatever it was, review of Vince's
21 office, was conducted.

22 Q Do you know that by reviewing the notes

1 that you have provided to us?

2 A No. I remembered that independently. I
3 remember that that happened, not the day after but
4 two days after Vince's death.

5 Q Did you have any understanding of why it
6 happened two days after Vince's death instead of one
7 day or some other time?

8 A Again, my recollection, not based on
9 memory of any specific conversation, was that there
10 was a lot of unanswered questions about how to
11 proceed with the investigation more broadly and that
12 those questions were to be resolved before the
13 specific investigation began.

14 Q Do you recall any more specifically what
15 those questions were or what the issue was?

16 A No.

17 Q How do you think you learned that there
18 were a lot of unanswered questions about it?

19 A I don't know.

20 Q Do you have any recollection of the source
21 of that information?

22 A I don't know.

1 Q Okay. I think I interrupted you. You
2 were telling me that you remembered that that was the
3 day, the 22nd of July 1993, was the day that the
4 review of the contents of --

5 A I remember one other thing from the 21st.
6 I don't recall the exact circumstances. But I don't
7 remember whether I spoke to him directly.
8 Nonetheless, Steve Neuwirth suggested that there
9 ought to be a guard posted outside of Vince's office,
10 and a uniformed Secret Service agent was asked to
11 sort of stand watch there.

12 The office was then guarded from morning,
13 sometime in the morning of the 21st.

14 Q Okay.

15 Did Mr. Neuwirth speak to you directly?

16 A I don't remember. I spoke to him quite a
17 bit over the period of those days, and we shared a
18 lot of information. But I don't specifically
19 remember whether he told me after the fact or at the
20 time.

21 Q Did you have any understanding of why
22 Mr. Neuwirth or others wanted a guard to be posted

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1 outside of Mr. Foster's office?

2 A I don't remember having a specific
3 conversation about it. My impression was just to take
4 precautions to make sure that the contents of the
5 office were protected.

6 Q In your conversation with Mr. Neuwirth was
7 there any discussion about whether or not any
8 documents had been previously removed from
9 Mr. Foster's office?

10 A I don't remember any specific
11 conversations about that. My impression was
12 certainly that they had not.

13 Q Did you and Mr. Neuwirth discuss whether
14 or not anyone had been in Mr. Foster's office?

15 A I don't recall.

16 Q Now, you knew at this time that
17 Mr. Nussbaum had been in Mr. Foster's office?

18 A Correct.

19 Q Did you have any indication from any
20 source at all that anyone else had been in
21 Mr. Foster's office?

22 A You know, I can no longer distinguish

1 between what I read in the papers or learned
2 subsequently and what I knew at the time.

3 Q You were sort of remembering -- we were
4 talking about the 22nd, and you remembered this other
5 thing about the 21st.

6 Let's go back to the 22nd now and ask to
7 sort of tell us what you recall about the review of
8 the contents of Mr. Foster's office.

9 A Well, my impression at the time, and I
10 don't remember the specific conversations, but my
11 impression was that I spoke to both, that I spoke to
12 Bernie. I spoke to Bernie also a number of times.
13 But my impression was that I was debriefed about the
14 review by Bernie and by Steve, both of whom were
15 present.

16 Q Bernie, is Bernie Nussbaum?

17 A Bernie is Bernie Nussbaum, and Steve is
18 Steve Neuwirth.

19 What I remember was that Bernie conducted
20 the review, that he went through, in the presence of
21 representatives of a number of federal agencies,
22 including the Justice Department and the Secret

1 Service and the FBI, and that Bernie went through the
2 contents of Vince's files and described generally
3 what was in them, what they were, looking for
4 anything that might shed light on what had happened
5 to Vince.

6 Then the documents were essentially
7 categorized one of three ways:

8 One was official White House business,
9 which Bernie was then going to distribute among the
10 other counsels, other lawyers in the White House.

11 Vince's personal effects were turned over
12 to the family's lawyer.

13 The Clintons' belongings were then to be
14 turned over eventually to the Clintons' lawyer.

15 Q When you say "eventually," what was that --

16
17 A "Eventually" is definitely addendum, based
18 on what I now know.

19 Q Okay. You think at the time you didn't
20 understand that certain documents were going to the
21 residence but --

22 A That's correct. I didn't. I don't

1 remember paying much attention to the timetable of
2 those documents.

3 Q Okay. Your best recollection is that you
4 were told these things either by Mr. Neuwirth or
5 Mr. Nussbaum or both?

6 A Correct.

7 Q Okay. You think you were told these
8 things sometime on the 22nd of July 1993?

9 A I don't remember exactly, but certainly
10 that's my impression.

11 Q Was it your impression at that time that
12 representatives of the Park Police or the FBI or
13 the --

14 A The Park Police were there too, yeah. I'm
15 sure they had --

16 Q I'm sorry?

17 A I was just going to say I didn't mention
18 the Park Police when I mentioned the federal agencies
19 who were present for the review, but certainly the
20 Park Police was there.

21 Q The Park Police and the FBI and the
22 Justice Department were there. That was your

1 understanding?

2 A Correct. And the Secret Service in some
3 capacity.

4 Q Okay.

5 Was it your understanding, based upon your
6 conversations with Mr. Neuwirth and Mr. Nussbaum that
7 any of those investigative agencies had been allowed
8 to review documents in Mr. Foster's office?

9 A It was my impression that documents
10 pertaining to the legal affairs of the White House or
11 the Clintons were not available for review by any of
12 the other agencies, but that things that didn't
13 necessarily fit that description may have been.

14 For example, some of Vince's personal
15 effects included, I think, a lease document for the
16 house that his family was living in. I think that
17 they may have made that -- things like that were sort
18 of in a different category.

19 But certainly the documents relating to
20 legal work were not available for review by anybody
21 other than Bernie.

22 Q Listen carefully, and if I state this

1 wrong, tell me it's wrong because I am really just
2 trying to see what your sense of what had happened
3 was on the 22nd of July.

4 You understood that the personal documents
5 or effects of Mr. Foster, or certain of those, were
6 at least available to be reviewed by investigative
7 agencies. Is that right?

8 A Yeah. I don't know whether they had any
9 interest in them, but --

10 Q They could at least look at them if they
11 wanted to?

12 A Um-hmm.

13 Q And was it also your understanding that
14 anything that did not fall into that description,
15 personal documents or effects, that the investigative
16 agencies could not review?

17 A I would state it the other way: Anything
18 that was deemed to be part of the legal issues
19 protected by some form of privilege or another were
20 not available, and things that didn't fall -- that were
21 not protected by some sort of privilege would have
22 been available.

1 Q So your impression on that day, based on
2 what Mr. Neuwirth and/or Mr. Nussbaum told you, was
3 that there were some category of documents which
4 didn't fall into the description of personal
5 documents which the investigators had at least been
6 entitled to review?

7 A Yeah.

8 Q Have you ever learned otherwise?

9 A No.

10 MR. ROMATOWSKI: I'm sorry, just so we
11 could follow this, could we hear that last
12 question?

13 THE REPORTER: Certainly.

14 MR. JOHNSON: It's hard for her to do.

15 THE WITNESS: Well, let me just do this,
16 Pete. I will repeat it in my words.

17 MR. ROMATOWSKI: Okay.

18 THE WITNESS: It is my impression that
19 documents that were protected by privilege were not
20 available for review.

21 Other documents -- and I don't know how to
22 describe those because I don't know whether that

1 would be limited to personal effects or
2 not -- documents that were not protected by privilege
3 would have been available for somebody to look at.

4 I guess it was Bernie Nussbaum who was
5 making the judgment about what was and what was not
6 protected.

7 BY MR. JOHNSON: (Resuming)

8 Q And you didn't have an impression one way
9 or the other about what percentage of the contents of
10 the office --

11 A No idea.

12 Q Okay.

13 In explaining these procedures to you, did
14 either Mr. Neuwirth or Mr. Nussbaum explain why the
15 procedures that they had followed had been
16 implemented?

17 A I don't remember anybody explaining it.

18 There was -- I think it's -- you know, it was
19 an ongoing conversation about all of this. It took
20 many forms over the course of those couple of days,
21 and so it's -- I don't remember exactly how I learned
22 about a number of things.

1 But it was certainly my impression that
2 documents pertaining to legal matters of the White
3 House were protected by attorney-client privilege and
4 that it was not only standard operating procedure but
5 proper that that privilege be protected.

6 Q Did Mr. Nussbaum and Mr. Neuwirth explain
7 to you why representatives from the Department of
8 Justice were present during the search?

9 A Again, I don't recall who explained these
10 things to me.

11 The Department of Justice was the point of
12 contact for all other federal investigating agencies.
13 That decision was made, in my memory, and again I
14 don't have any particular memories of specific
15 conversations, because for the White House to be the
16 point of contact for an investigation about itself
17 would have been deemed inappropriate by the press and
18 by perhaps the other federal agencies who wanted
19 information.

20 So the Justice Department was asked to
21 serve as a point of contact to help make decisions
22 and to help the investigating agencies gain access to

1 information that they thought they needed.

2 Q That explains why the Justice Department
3 was the point of contact. Let me just come back to
4 be a little more specific and ask you to try and
5 recall whether or not Mr. Nussbaum ever told you why
6 the Justice Department attorneys were present during
7 the review.

8 A I have no recollection of either of them
9 telling me specifically why the Justice Department
10 was there.

11 Q Did either of them tell you that the
12 Justice Department or any members or representatives
13 of the Justice Department had objected to the
14 procedures of Mr. Nussbaum?

15 A You know, I certainly remember some
16 discussion of that, but, again, I don't have any
17 recollection of any specific conversations.

18 Of course, I mean it ended up in the
19 newspaper.

20 Q You think you discussed it with anyone
21 before it was in the newspaper?

22 A I don't know. I don't remember.

1 Q I realize on it's difficult. On the 22nd
2 or shortly thereafter, when you were first briefed,
3 you don't have any recollection today about whether
4 recollection or Mr. Nussbaum said words to the effect
5 of the Justice Department wasn't happy with this or
6 anything like that?

7 A No, I don't.

8 Q Okay.

9 Now, you also said a moment ago that your
10 impression was that it might be seen as inappropriate
11 by the press or perhaps even other investigative
12 agencies for the White House to be the point of
13 contact on an investigation into itself.

14 Can you elaborate on that? What was your
15 impression about why that would be perceived as
16 inappropriate?

17 A Six months' experience in the White House.
18 I mean I think that's always a question that comes
19 up. Any time the White House contacts a federal
20 agency, somebody will claim inappropriate pressure.

21 So, in order to avoid even the appearance
22 of a conflict, I think it was decided that -- and,

1 again, I don't remember specific conversations. I
2 don't remember talking to anybody. This is my
3 impression, two years later, based on what I knew at
4 the time and have probably read since and based on my
5 experience of how innocent events at the White House
6 often get treated.

7 But it is my impression, based on all of
8 that, that it was decided the Justice Department
9 would help alleviate any potential appearances of
10 conflict or appearances of pressure or appearances of
11 being less than straightforward.

12 Q That their presence would mitigate against
13 any even appearances of --

14 A I don't know about their presence,
15 because, again, I don't have any recollection of why
16 they were present at the review, but their
17 designation as the point of contact.

18 Q What, if anything, more do you recall,
19 Ms. Myers, about the possibility that representatives
20 of the Justice Department objected to the procedures
21 being implemented at the search?

22 A I'm sorry?

1 Q What, if anything -- I think you testified a
2 moment ago that you became aware later in time at
3 some point --

4 A I don't remember if it was the Justice
5 Department though, or the Park Service Police. I
6 would say that my recollection at this point is that
7 it was the Park Service Police, but I don't remember.

8 I remember -- I remember some objections,
9 and I don't remember exactly from what quarter. I
10 don't remember--I don't remember on what grounds.

11 Q Was there ever a conscious decision made
12 in the White House not to tell the press that the
13 Park Police or the Justice Department had objected to
14 the handling of the documents?

15 A I certainly don't recall. I mean
16 that's -- I don't recall.

17 Q Whether or not there was a conscious
18 decision? Do you recall whether or not, to the best
19 of your knowledge, the press was ever informed about
20 the objections, that you became aware of?

21 A I think it's -- well, this is, again, a
22 generalization. It's generally safe to assume in

1 instances like this that the agencies themselves make
2 that clear to the press. It's not necessary for the
3 White House to put out that kind of information in
4 most circumstances.

5 This is Washington, after all.

6 Q You are saying this information leaks out
7 no matter whether anybody issues it or not?

8 A And, again, I haven't reviewed the
9 stories, and I don't remember what the sources were.
10 But, based on experience, in cases like this it
11 usually comes from anonymous sources at the
12 disgruntled agencies themselves.

13 Q And I may have asked you this. If I did,
14 I apologize.

15 You don't recall there being any
16 conversations with Mr. Neuwirth or Mr. Nussbaum or
17 anyone else to the effect that let's not ourselves
18 publish this little tiff or disagreement?

19 A No.

20 Q Or whatever it was?

21 A No.

22 Q Let me direct you to what is page 3 of

1 Deposition Exhibit No. 1. it says at the top, just for
2 the record, it says at the top of the page, "Two
3 hours, FBI," and it identifies some people.

4 Are these your notes surrounding that
5 office search that we have just described?

6 A Yeah. Based on -- the next couple of pages
7 appear to me to be notes on a readout, and perhaps
8 readout from two different people. I don't recall
9 exactly, but that is what it looks like to me, on
10 that search.

11 Q I'm sorry, I am not familiar with the term
12 readout. What is that?

13 A A description of the search by somebody
14 who is present.

15 Q I see. And you can't tell from these
16 notes who may have said that?

17 A No.

18 Q Looking at page No. 3 of this Deposition
19 Exhibit No. 1, there is an entry that says, "Thorough
20 search," and then some data has been scratched out
21 there.

22 Can you read what was scratched out?

1 A The only thing I can make it is "counsel."
2 But I don't recall. I can't tell what it
3 is, and I have no idea why I would have scratched it
4 out.

5 Q I don't pretend to read it either, but it
6 looks like "with" something "by counsel." Is that
7 what it says? Or that doesn't help?

8 A It could say that, but I don't know.

9 Q Okay.

10 A I crossed it out, so it may have been
11 wrong. I mean these haven't been redacted in any
12 way.

13 Q No, I didn't think they had been. I just
14 wondered if you could read the interlineation.

15 There is a further one down at the bottom.
16 It says, "No," and I can't read that. It looks like
17 "No" something.

18 A It looks like, "No, did not." I don't
19 know.

20 Q At the bottom it says, "No document." Are
21 you referring to no note or no suicide note or no
22 documents relating to Mr. Foster's death?

1 A I can't --

2 Q You just don't recall?

3 A Yeah. I don't know.

4 Certainly, that's reflected later on in
5 these
6 notes, though.

7 Q Over on page 4 there is actually an entry
8 that says, "No suicide note found."

9 A Right.

10 Q Is that what you're referring to?

11 A Um-hmm. I think it says it somewhere else,
12 too. "No suicide note or any other document bearing
13 on his death."

14 Q Turn to page the page you were just
15 referring to, which I think is page 5 of this
16 exhibit.

17 About halfway on that page it says,
18 "People went in," and beneath that it says, "Bernie."
19 What are you describing there?

20 A I don't know. I don't know whether that
21 was people who went in before or after the office was
22 sealed or before the search. I don't know.

1 Q Okay.

2 What information, if any, did you have on
3 who went into the office before it was sealed?

4 A Well, I don't remember at the time what I
5 might have known.

6 I know through subsequent conversations,
7 press reports, whatever I may have known at the time,
8 it is now my impression that Maggie, Patsy, and
9 Bernie went into Vince's office the night of his
0 death.

1 But at the time, I don't recall what I may
2 have known.

3 Q Okay.

4 Well, you did know that Bernie went in.

5 A I did know that Bernie went in, yeah.

6 Q Do you have any understanding today about
7 whether this entry on page 5 reflects a conversation
8 between you and someone on the topic of who went into
9 Mr. Foster's office?

0 A No. It looks to me like it's just a
1 readout about the -- about the search and whether -- what
2 this means I don't know.

1 But this, I mean this clearly, to me,
2 given how I generally track these things, was
3 somebody was describing to me what had happened in
4 the search and I was taking notes, is my best guess.
5 It's more than a guess, actually.

6 Q You're pretty certain that's what
7 happened?

8 A Yeah. Um-hmm.

9 Q So, if I am understanding you correctly,
0 then this is your annotation about what someone said,
1 what someone may have read out to you about that
2 someone else said in the search itself?

3 A Yeah. I mean I don't remember exactly. I
4 talked--

5 Q Sorry.

6 A Yeah.

7 I talked to Steve Neuwirth a lot and I
8 talked to Bernie a lot during this period. I don't
9 remember specifically any conversation.

0 It is likely that one of the people who
1 was actually in the office, like Bernie or Steve or
2 both of them, was describing the events as they

1 happened.

2 It was a fairly common practice in the
3 White House that when something like this would
4 happen, when there was a lot of press interest on any
5 series of events, that people who were involved in
6 something like this would come down to my office or
7 call me when something happened and say, "I'm just
8 going to give you a readout on what happened,"
9 because it would be something that we had discussed
10 in an ongoing way. This was fairly routine.

11 So, you know, they would keep me abreast.
12 "The different agencies are coming in at XYZ time.
13 We're going to do this. We'll let you know what
14 happens when it's over." When it's over, they give
15 me a call.

16 This looks to me very much like the
17 readout from the meeting that somebody was just
18 describing, somebody who -- generally I liked to speak
19 to somebody who was there.

20 Q You said a moment ago that through some
21 source that you don't specifically recall, you have
22 come to learn that Mr. Nussbaum, Ms. Thomasson, and

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1 Ms. Williams may have been in Mr. Foster's office on
2 the evening of his death.

3 Have I got that right?

4 A Yes.

5 Q Okay.

6 Have you ever spoken with Ms. Williams
7 personally directly on the question of whether or not
8 she was in there?

9 A I don't remember a conversation, but I
10 certainly think it's possible.

11 Q What about Ms. Thomasson, have you ever
12 spoken with her directly on that topic?

13 A Again, I don't remember a conversation,
14 but it may have been possible.

15 Q If the question is unfair, if we need to
16 be more specific, just tell me and we will come back
17 to it.

18 In some subsequent press briefings, that
19 topic arose, who had been in the office. Do you
20 recall today whether or not, in anticipation of those
21 press briefings or after the question arose, whether
22 or not you went directly to Ms. Williams or Ms.

1 Thomasson and said,
2 "Were you in there at that time?"
3 A No, I don't remember.
4 MR. ROMATOWSKI: And by "that night," you
5 mean the night of the 20th?
6 MR. JOHNSON: Right. Thank you. The
7 night of the 20th.
8 MR. ROMATOWSKI: Okay. I just don't want
9 to lose the thread here.
10 MR. JOHNSON: Okay.
11 BY MR. JOHNSON: (Resuming)
12 Q Mr. Foster's funeral was in Arkansas on
13 the 23rd, that Friday. Did you travel with the
14 President to that funeral?
15 A Yes.
16 Q When did you return from Arkansas?
17 A Friday evening.
18 Q It was a day trip?
19 A Um-hmm.
20 Q And I take it -- strike that. I'm sorry.
21 The handwritten note of Mr. Foster's was
22 discovered on Monday, the 26th. Is that correct?

1 A Um-hmm.
2 Q What do you recall about that event?
3 A I don't recall the exact sequence of
4 events, and I don't remember exactly with certainty
5 how I learned about it.
6 To the best of my recollection, I learned
7 about t Tuesday, the 27th. The President traveled to
8 Chicago on Monday. I was with him, I think.
9 Tuesday, to the best -- I am not entirely
0 sure about this, but my best recollection is that in
1 preparing for my briefing, as I was making the rounds
2 like I usually did, trying to figure out, again,
3 answers to questions I thought might come up, David
4 Gergen -- I believe it was Gergen and probably some
5 other people were probably present and it was
6 probably in Mack's office -- told me that they had
7 found this note and wanted me to be very careful if I
8 was asked about a note at the briefing that day,
9 which I guess I wasn't, or if I was, I was evasive
0 about it because we hadn't made it public yet.
1 Q By "very careful," they meant careful not
2 to reveal the -- ?

1 A Well, yeah. You always, you know, you
2 don't want somebody to walk out there and say, "No,
3 no note was discovered," when in fact one had been.
4 And yet at the same time we weren't ready to disclose
5 that publicly.

6 But I don't remember exactly what happened
7 in the briefing, and I haven't reviewed the
8 transcript of that day. So I don't know how -- if it
9 came up or in what context. I believe it did not.

10 Anyway, that's how I learned about it.

11 Q From mister --

12 A I believe it was from Mr. Gergen. I am
13 not 100 percent sure, but I believe that's correct.

14 Then I spoke at some point later that day
15 or the next day, I don't remember, with Steve
16 Neuwirth, who had discovered the note, and he told me
17 in some detail how that had happened.

18 Q Did you ever actually see the note?

19 A No, I never saw the -- I don't remember ever
20 seeing the note itself, which was torn up in pieces
21 in an envelope and eventually turned over to the Park
22 Service Police.

1 What I do remember seeing was a typed-up
2 transcript of the note.

3 Q Why don't I ask you now to turn to page 7
4 of this deposition, Exhibit No. 1, which is more of
5 your notes. Why don't you actually flip to page 6
6 and I will do an obvious thing.

7 It says the subsequent notes are from July
8 28 to August 5. To the best of your recollection,
9 that is accurate?

10 A Um-hmm.

11 Q So these would have been notes that you
12 made on or after July 20th?

13 A Correct.

14 Q On page 7, why don't you take a moment to
15 review those and tell me what, if anything, what you
16 recall about the topic that you were writing about?

17 A Well, this is, again, a description of the
18 review of the contents of Vince Foster's office.

19 It lists who's there from the
20 investigating agencies and who was there from the
21 White House staff.

22 It includes a notation about Hamilton's

1 partner, Hamilton being Jim Hamilton, who was the
2 lawyer for the Foster family.

3 I don't know who Michael Spafford is or if
4 those are two separate people. I don't remember.

5 Q What, if anything, do you recall about why
6 this topic was being discussed on the 28th or after?

7 A I don't know why it was. I don't
8 remember.

9 Q Look on page 8, if you would, please, at
0 the top of the page. "They asked us to go." Why
1 don't you just read that?

2 A "They asked us to go through his computer
3 phone log, et cetera, and turn over relevant
4 information."

5 Q It says their search lasted two hours.

6 A Correct.

7 Q Perhaps I could ask you now to skip to
8 page 11.

9 This appears to me to be a description of
0 what happened with the note after it was discovered.

1 Am I correct about that?

2 A I don't recall specifically, but that's

1 what it appears to be.

2 Q And, again, you don't know what the source
3 of this information may be?

4 A Nope.

5 Q Okay.

6 It says in sort of the third line down,
7 "Bernie went to see Mack. He was out of town,
8 Chicago."

9 Is that the same trip that you testified
0 that you were on?

1 A Yeah. And I have a vague recollection of
2 maybe Mack and Gergen leaving Chicago early. Not
3 necessarily because of this, but I think Mack felt
4 he -- I don't remember exactly.

5 But, yes, I think that's right.

6 Q It says, "Lisa was in Little Rock." Is
7 that a reference to Mr. Foster's wife?

8 A Correct.

9 Q Okay.

0 It says at the last entry on that page,
1 "Mack told POT would ask if they could tell the
2 President of the United States that evening."

1 A Correct.

2 Q Okay. Was that your understanding that
3 the President was told Tuesday evening, the 27th,
4 about the note?

5 A You know, I don't remember independently.
6 But that's what the notes say.

7 Q Do you have any understanding, based upon
8 your conversations with anyone about why the
9 President wasn't told sooner?

10 A I don't remember.

11 This looks like a little tick-tock about
12 the note, though. Monday, Tuesday, in order.

13 Q It says, "Called in AG and deputy."

14 A Um-hmm.

15 Q Referring to Ms. Reno and Mr. Heimann, I
16 take it?

17 A Correct.

18 Q It says beneath that, "Potus aware of
19 contents but was not read."

20 A Right.

21 Q Does that mean to you the President was
22 told what it said but it wasn't read to him?

1 A Right.

2 Q Or that he did not read it?

3 A That the contents of it were described to
4 him but that he didn't read it.

5 Q Okay.

6 Did anyone ever tell you whether or not
7 the First Lady had seen the note?

8 A I don't recall.

9 Q And your method of doing this, when you
10 were saying it was sort of a little tick-tock, I
11 think was your phrase, of sort of a chronology of
12 what happened with the note. Is that a fair
13 statement?

14 A Um-hmm.

15 Q If the First Lady had seen the note, would
16 that be something that you would expect to know?

17 A I don't remember it being a big issue at
18 the time. It just -- it may have come up in
19 conversation. I didn't write it down. I don't know
20 whether that means I didn't know or I just didn't
21 write it down. I just don't remember.

22 Q Do you know today whether or not she saw

1 the note?

2 A I don't. I would assume she did, but I
3 don't know.

4 Q Turn to page 13, if you would.

5 A Um-hmm.

6 Q It says, "Webb not consulted." I take
7 this is a reference to Mr. Hubbell?

8 A Yes.

9 Q Okay. What do you recall today that this
10 page refers to?

11 A I don't remember exactly. I have vague
12 recollections of the events of that evening, Tuesday,
13 the 27th.

14 This appears to me to be notes from a
15 meeting with Phil Heyman.

16 Q That you were physically present at?

17 A Yeah.

18 Q Okay. So you think these were the notes
19 that you made during that meeting with Mr. Heyman?

20 A Yeah. Either that or in a conversation
21 after. I don't really remember. But this appears to
22 me to be based on what he said.

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1 Q Okay. And "Webb not consulted," what, if
2 any, recollection today do you have about what that
3 meant?

4 A Well, I remember that there was some
5 sensitivity about if the Justice Department was the
6 point of contact, that Webb not be in the middle of
7 making all the decisions about how to handle issues
8 like how -- whether or not to release this note, which
9 was a topic of conversations, because he had a
10 personal -- he was personally connected to it.

11 So, again, I don't remember specifically,
12 but that that appears to me to say that Heyman said
13 that
14 Webb wasn't consulted in their discussions internally
15 at the Justice Department about whether or not the
16 note should be released.

17 Q Okay.

18 Down at the sort of bottom third of this
19 page 13, it says, "DOJ recommends," and then there
20 is a colon and the next line says, "It seems to me
21 all goes forward." Have I read that correctly?

22 A Yeah.

1 Q What does that refer to?
2 A I have no idea.
3 Q What about the next line, can you read
4 that?
5 A "Would not interfere."
6 Q What does that refer to?
7 A I don't -- I don't know.
8 Q Is that one, as you read this today, is
9 that one of the Department of Justice
10 recommendations, "Would not interfere"?
11 A I don't know.
12 Q It just doesn't mean anything at all to
13 you?
14 A Huh-uh.
15 Q Okay.
16 The next line says, "Sense," and there is
17 a colon and "W.H.," which I take it to refer to the
18 White House?
19 A Um-hmm.
20 Q "Has exercised too much control over
21 investigation."
22 Do you remember any conversation by

1 Mr. Heyman or others of this meeting on that topic?
2 A Only really vaguely. I don't remember
3 exactly what it was, and I, before reviewing these
4 notes, could only recall that there was some
5 disagreement or something. That's too strong a word.
6 But there was discussion about the whole situation
7 with people from the Justice Department.
8 I think that's Heyman describing to us the
9 sense of the Justice Department.
10 Q On the next line, which is carried over
11 onto page 14, says, "It has aroused suspicion. We
12 should do everything in power." Does that phrase
13 refer back to the earlier discussion about the White
14 House having exercised too much control over the --
15 A Probably. But, again, I don't -- I mean I
16 am sort of guessing because I don't really know.
17 Q Then could you read the next line? It's
18 "Heyman/Reno."
19 A "Heyman and Reno have had strong
20 disagreement over whether this has all been handled."
21 Q What does that refer to?
22 A Well, I remember there was disagreement,

1 but I can't remember who was on what side, about -- and
2 I just don't remember.

3 Q And when you say "who was on what side,"
4 what do you mean?

5 A Well, Heyman and Reno disagreeing, I can't
6 remember who was -- what they were disagreeing about.

7 Q Your impression means that -- I'm sorry, I
8 confused myself.

9 Was it your sense that Heyman and Reno
0 together had a disagreement with the White House or
1 that Mr. Heyman and Ms. Reno disagreed among
2 themselves?

3 A It's my impression that they may have
4 disagreed among themselves. But, you know what, that
5 might be wrong. I don't remember.

6 Q Putting aside the note for a moment, did
7 you ever come to learn that the Justice Department
8 was very unhappy with the way the White House had
9 handled the document review and the investigation
0 into Mr. Foster's death?

1 A Oh, I think there was plenty written about
2 that subsequently, and I don't remember again, it

1 gets very fuzzy as to when I knew that or how I knew
2 it.

3 But certainly at this point that's my
4 impression that there was some unhappiness at the
5 Justice Department with the way the White House
6 handled it.

7 Q Okay.

8 Can you put any more flesh on it than that
9 about what specifically they may have been unhappy
0 about?

1 A I just don't remember.

2 Q Let me ask you to turn, if you would,
3 please, to the next page, which is page 15 of this
4 first deposition exhibit.

5 At the top it says, I believe, "Why did
6 not make order? Why not done?"

7 Do you see that?

8 A Um-hmm.

9 Q Do you have any understanding today of
0 what that refers to?

1 A No idea.

2 Q Do you know whether or not it refers to an

- 1 order to seal Mr. Foster's office?
- 2 A I don't have any -- it could, but I don't
- 3 know.
- 4 Q It just doesn't any bells for you?
- 5 A Huh-uh.
- 6 Q "Who else went in, and why?" Is that what
- 7 the next line says?
- 8 A Um-hmm.
- 9 Q Again, let me ask you, are these notes a
- 10 continuation of the notes that began on page 13 of a
- 11 meeting that you attended with Mr. Heyman?
- 12 MR. BYERS: I don't believe they are.
- 13 MR. ROMATOWSKI: If it's important to you,
- 14 we can tell you where these fall in her notebook and
- 15 which are consecutive. But my recollection is that's
- 16 correct, that this is a subsequent page.
- 17 MR. BYERS: Yes. 15 is not consecutive.
- 18 MR. JOHNSON: It's nonsequential.
- 19 THE WITNESS: Yeah.
- 20 BY MR. JOHNSON: (Resuming)
- 21 Q Is 14 a sequential page?
- 22 A 13 to 14?

- 1 MR. ROMATOWSKI: Let me say this. I think
- 2 they are in sequence, but they are not consecutive,
- 3 if you follow me. In other words, they are in the
- 4 order that --
- 5 MR. JOHNSON: I don't. But I confess I am
- 6 getting tired.
- 7 (Laughter.)
- 8 MR. ROMATOWSKI: Okay. Let me try.
- 9 I think they appear in this exhibit in the
- 10 order in which they appear in the notebook. But they
- 11 are not consecutive in the sense that you don't have
- 12 every page of the notebook.
- 13 THE WITNESS: You don't have the Bosnia
- 14 notes, for example.
- 15 MR. ROMATOWSKI: Because there is lots of
- 16 other stuff in her notes, obviously, about all sorts
- 17 of matters that aren't relevant here.
- 18 MR. JOHNSON: Was there some other page in
- 19 the notebook between 13 and 14?
- 20 Are we on the record or off the record?
- 21 MR. ROMATOWSKI: I thought we were on.
- 22 MR. JOHNSON: Okay. We will just go off.

1 MR. ROMATOWSKI: Okay.

2 (Discussion off the record.)

3 MR. JOHNSON: In an off-the-record

4 conversation, counsel has been kind enough to help us
5 understand the sequence of the documents, and I think
6 what we have ascertained is that in Deposition
7 Exhibit No. 1, pages 13 and 14, which we have just
8 been referring to, are in fact sequential pages in
9 the actual binder that one follows the other with no
10 intervening pages.

11 Page No. 15 in the same deposition
12 exhibit, however, is not sequential, that there are
13 intervening pages that are not responsive to the
14 voluntary production that you described earlier and,
15 therefore, have not been produced.

16 MR. ROMATOWSKI: Correct.

17 MR. JOHNSON: Okay.

18 BY MR. JOHNSON: (Resuming)

19 Q Now, we were talking about, Ms. Myers, I
20 think, page 15 having established that it doesn't
21 follow pages 13 and 14.

22 A Correct.

1 Q I need to ask you what you recall about
2 the circumstances of your making the notes on page 15
3 of this deposition exhibit.

4 A I don't recall anything about the
5 circumstances of these notes.

6 Q Okay.

7 Reading the entries doesn't help you when
8 it says, "Why did not make order? Why not done?"
9 That doesn't help you understand at all?

10 A No.

11 Q And you still don't have any recollection
12 about what that refers to?

13 A None.

14 Q The next entry, "Who else went in, and
15 why," is that referring to into Mr. Foster's office?

16 A I don't have any idea.

17 Q It says, "Office tampered with? How do
18 you know?" Does that refer to Mr. Foster's --

19 MR. BEN-VENISTE: That's "Office tampered
20 with?" There's a question mark there after the
21 "with."

22 THE WITNESS: Right. "Office tampered

1 with?"

2 MR. JOHNSON: Right.

3 THE WITNESS: Again, I don't know.

4 BY MR. JOHNSON: (Resuming)

5 Q It says, "Is the FBI investigating?" Does
6 that mean anything to you? And the next line is
7 "Office sealed now? Guarded?" That also doesn't
8 mean anything to you?

9 You have to answer.

10 A No.

11 Q I take it your assumption is that these
12 entries in the notebook refer in some way to
13 Mr. Foster's office?

14 MR. ROMATOWSKI: Well, that's counsel's
15 assumption.

16 THE WITNESS: That's why it's in --

17 MR. ROMATOWSKI: In an abundance of
18 caution, we draw an inference for purposes of
19 deciding what to produce to you for your examination
20 of the witness, that perhaps it relates. But we
21 don't need to testify on her behalf to what inference
22 she draws.

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1 MR. JOHNSON: I didn't mean to impeach her
2 with production. I just wondered.

3 MR. ROMATOWSKI: Fine.

4 BY MR. JOHNSON: (Resuming)

5 Q Is it your best guess today that these
6 refer to that?

7 A Probably.

8 Q Okay.

9 What do you recall about conversations
10 with anyone about an order to seal the office or any
11 other order and why it was not done? I am not
12 testifying as to what happened, I am just trying to
13 phrase it on the topic.

14 A I don't -- I don't know that it was not
15 done. To this day, I don't know that it was not
16 done.

17 Q Excuse me. You never went and asked
18 Mr. Nussbaum or anyone else whether or not the office
19 was in fact sealed on that evening?

20 A I don't recall. I may have, but I don't
21 recall.

22 Q I think we have established that these

1 notes would have been written sometime after July 28,
2 1993. Is that correct?

3 A Yes. That's the strike date on the front
4 of the book.

5 Q Okay.

6 The last entry says, "Is office sealed
7 now? Guarded?"

8 Do you recall there being a question on
9 July 28, 1993, about whether or not Mr. Foster's
10 office continued to be sealed?

11 A Huh-uh.

12 MR. ROMATOWSKI: Let me ask one other
13 thing. Do you recognize, from looking at this note,
14 whose questions those are?

15 THE WITNESS: No. I don't. You know, it
16 could have been from -- it could have been from a
17 reporter. I could have taken questions from a
18 reporter. It could have been questions that were
19 raised in a meeting.

20 I don't have any recollection of what this
21 is.

22 MR. ROMATOWSKI: Okay.

1 BY MR. JOHNSON: (Resuming)

2 Q Let me show you a document that I will
3 identify for the record as document No. 000504
4 through 513, and ask you whether you have ever seen
5 that document before?

6 MR. JOHNSON: Off the record.
7 (Discussion off the record.)

8 THE WITNESS: No.

9 BY MR. JOHNSON: (Resuming)

10 Q Do you recognize the handwriting?

11 A It could be Mark's, Mark Gearan's, but I'm
12 not sure.

13 Q Okay.

14 Let me also show you another document,
15 which bears document production No. 464 through 466.
16 I ask the same question, Ms. Myers: Have you ever
17 seen it before?

18 A No. Same handwriting. It looks like
19 Mark's.

20 Q You don't recall ever having seen that
21 before now?

22 A I have never seen it before. It looks

1 like the same handwriting, and it looks to me like
2 Mark Gearan's.

3 MR. JOHNSON: Just give me a second.

4 (Pause.)

5 BY MR. JOHNSON: (Resuming)

6 Q The same question with a document numbered
7 000493. Have you seen it before? And assuming you
8 haven't, whose handwriting?

9 A I haven't seen it, and I don't recognize
10 the handwriting.

11 Q Can you read the signature at the bottom?

12 A Huh-uh.

13 MR. JOHNSON: I'm sorry.

14 BY MR. JOHNSON: (Resuming)

15 Q Let me show you another document bearing a
16 document production number 000494 through 496 and ask
17 you whether you have ever seen that document before?

18 A Yeah. This one --

19 Q What is that document?

20 A This is a report from Craig Livingstone
21 about events of that evening.

22 Q When do you recall that you have seen this

1 before?

2 A I recall seeing it the last time I did
3 this.

4 Q By "this," you mean questions on this
5 topic?

6 A Correct.

7 Q Don't tell me anything about any previous
8 interviews by the independent counsel or
9 representatives of that office.

10 But other than what you may have seen, if
11 anything, at that time, had you seen it before then?

12 A It looked familiar to me when I saw it at
13 that time. I don't remember exactly when I might
14 have seen it before.

15 But it's dated, obviously, July 21, the
16 day after Vince died, and I mean I do remember seeing
17 it before.

18 Q Was it prepared for you?

19 A I think it might have been.

20 Q Do you have any recollection of why?

21 A To provide me with details about what
22 Craig had done the night before, I would expect. I

1 don't remember asking for it.

2 As I said earlier, Craig was pretty good
3 about providing me with information he thought that I
4 might need in describing events to the press.

5 (Pause.)

6 MR. JOHNSON: Are you waiting for me to
7 ask another question? I'm sorry.

8 BY MR. JOHNSON: (Resuming)

9 Q Let me also show you this document, which
10 is identified as 000497 and 498. Same question:
11 Have you ever seen it before?

12 If the only time you have ever seen it
13 before was in connection with the independent
14 counsel's investigation, you can exclude that from
15 your answer.

16 A I don't remember seeing this before.

17 Q I take it you did not prepare that
18 document?

19 A No, sir.

20 MR. JOHNSON: Let's take, at this time,
21 two or three minutes to give me an opportunity to do
22 what I can to cut to the chase on the remaining

1 documents.

2 MR. ROMATOWSKI: Okay.

3 (Recess.)

4 BY MR. JOHNSON: (Resuming)

5 Q Let me sort of shift gears now. I want to
6 talk with you about a series of press briefings.

7 First of all, let me ask as a procedural
8 matter, I have here a number of transcripts of press
9 briefings that were provided to the committee by the
10 White House. Was it the White House practice to keep
11 a transcription of all press briefings?

12 A Yes.

13 Q How was that physically done?

14 A There is a pool of stenographers who
15 transcribe anything we ask them to, including
16 anything that happens in the briefing room.

17 Q The first thing I want to show you is what
18 appears to be a transcript of a press briefing on
19 July 21, 1993. That would be the day after
20 Mr. Foster's death.

21 It indicates that Mr. McLarty and Mr.
22 Gearan conducted this press briefing.

1 You can ignore the yellow tabs. They are
2 just my notes.

3 Take as much time as you would like to
4 review it. I think I will be able to point you to
5 the one or two specific places I want to see if you
6 have any information.

7 My first question is do you recognize that
8 as a transcript that is maintained by the White
9 House?

10 A Sure.

11 Q Do you have any recollection today about
12 why Mr. McLarty and Mr. Gearan gave the press
13 briefing on the 21st of July?

14 A Well, I think Mack wanted to because he
15 knew Vince for 40 years and he was the chief of staff
16 and he felt that it was his obligation.

17 Q To do that?

18 A To do that.

19 Q What about Mr. Gearan?

20 A I don't remember why Mark did it.

21 Q Was it unusual in the White House at that
22 time for Mr. Gearan or for someone other than the

1 press secretary to conduct press briefings?

2 A Not really. I mean George had been doing
3 it. He was the communications director. It was an
4 open issue whether Mark would brief from time to time
5 at that point, and he did that for a while, and then
6 he stopped.

7 But this was about a -- well, six weeks or
8 so after George stopped doing the briefings every day
9 and I did them most of the time.

10 But Mark did them from time to time.

11 But I don't remember specifically why he
12 did it that day.

13 Q Do you remember whether or not you
14 attended this press briefing?

15 A Yeah, I did.

16 MR. JOHNSON: If you give me just a
17 second, I think we may be able to skip some of this.

18 (Pause.)

19 BY MR. JOHNSON: (Resuming)

20 Q Let me direct your attention -- Ms. Myers, I
21 realized you were not the speaker at this press
22 briefing -- to a series of questions and answers that

1 appear on page 249 of this exhibit.

2 If I didn't do so earlier, I should state
3 for the record that this is a document No. Z2000237
4 through 252.

5 The question I am referring to is near the
6 bottom of the page and it says, "Has his office been
7 searched at all for clues, and is it now being sealed
8 as part of the investigation?"

9 Mr. Gearan's response: "It's secured,
10 yes. It's secured."

11 Next question: "And was it searched for
12 notes or clues or anything?"

13 Mr. Gearan: "There was nothing remaining.
14 No."

15 I am correct, am I not, that on the 21st,
16 you knew that Mr. Nussbaum had been in Mr. Foster's
17 office on the evening of the 20th?

18 A That's my recollection, yeah.

19 Q Do you know whether or not Mr. Gearan also
20 knew that?

21 A I don't know.

22 Q To the best of your knowledge, was there a

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1 decision made to try not to tell the press that
2 Mr. Nussbaum had been in Mr. Foster's office that
3 evening?

4 A I don't remember.

5 I am certainly not wanting to try to -- I
6 don't know what Mark was trying to say there.

7 Q If my question seemed to ask you to
8 interpret, I am not, really.

9 A Well, it seems, based on the assumption
10 that Mark said no one had been in the office, then I
11 don't -- I'm not sure that that's -- I don't know what he
12 was trying to say.

13 I don't know what your assumption was.
14 Maybe I am misreading you.

15 Q I think you are.

16 We can agree that he didn't say that
17 Mr. Nussbaum was in the office?

18 A Not in that sentence, no. I haven't read
19 the whole transcript.

20 Q Okay. Well, feel free if you need, or
21 maybe your counsel can look at it later. I have,
22 and it doesn't say that Mr. Nussbaum was in the

1 office.

2 A Okay.

3 Q My question, obviously you can't say what
4 was in Mr. Gearan's mind on that day, but my question
5 is whether or not you are aware of any discussion at
6 the White House to try not to reveal on the 21st of
7 July 1993 that Mr. Nussbaum had been in Mr. Foster's
8 office?

9 A Not that I am aware of.

10 MR. BEN-VENISTE: You know, I really think
11 that's unfair in the context of this to make that
12 suggestion, and I think that the question standing
13 alone is appropriate.

14 MR. JOHNSON: Okay.

15 MR. BEN-VENISTE: But not in reference to --

16
17 MR. JOHNSON: Fair enough. I take your
18 point. Without reference to the document, because
19 despite my efforts not to characterize it, I
20 apparently implicitly do.

21 BY MR. JOHNSON: (Resuming)

22 Q Was there any discussion, to the best of

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1 your recollection, on the 20th or the 21st about a
2 desire in the White House not to reveal that
3 Mr. Nussbaum had been in Mr. Foster's office?

4 A No. I don't recall any such conversation.
5 (Pause.)

6 Q Let me also show you a transcript of a
7 press briefing, Ms. Myers, I believe you gave on the
8 22nd of July. And for the record, it is document No.
9 000418 through 432.

10 Again, feel free to ignore the yellow
11 tabs. They are my additions to this.

12 The first question is whether or not you
13 recognize that as a transcript of that briefing?

14 A It looks like it is.

15 Q I will represent to you that in this
16 briefing it also was not discussed that Mr. Nussbaum
17 had been in the office of Mr. Foster on the evening
18 of the 20th. I really just ask the same question:
19 whether or not-without giving any explanations, and
20 maybe you weren't asked -- but my question really goes
21 to whether or not you had a purpose in not revealing
22 that Mr. Nussbaum had been in the office?

1 A I don't recall any conversation about
2 that. I certainly don't recall any attempt to
3 conceal Mr. Nussbaum's presence in Vince's office
4 that night.

5 (Pause.)

6 Q I show you a document bearing document
7 production No. 000253 through 269, which appears to
8 me to be a transcript of a press briefing given by
9 you on July 30, 1993.

10 The first question is: Do you recognize
11 that as a White House transcript of a press briefing?

12 A It looks like it is.

13 Q Do you recall giving a press briefing on
14 that day, or do you have any specific --

15 A I don't remember specifically, but it was
16 fairly almost a daily occurrence.

17 Q Let me direct your attention to page 257
18 of this exhibit and ask you to read the last question
19 and answer on that page and the following question
20 and answer -- I'm sorry, the question and answer that
21 carried over to the following page.

22 (Pause.)

1 A The last question and answer?

2 Q Yes.

3 (Pause.)

4 Have you had a chance to read this?

5 A Um-hmm.

6 Q First, if you don't mind, I have only one
7 copy.

8 A Sure.

9 Q The first question centers on a report in
10 what is described in the question as "this morning's
11 paper," that, "The White House may have hindered the
12 Park Police case by slowing down the examination of
13 the evidence, especially the note," and asks for your
14 reaction to that.

15 On this date, July 30, 1993, were you
16 aware of the objections or disagreements that we have
17 discussed in your notes between the Justice
18 Department and the White House?

19 A Again, I don't have any independent
20 recollection.

21 But if there was a story in the White
22 House -- in the Washington Post that morning describing

1 it, I think it's safe to assume that I was aware of
2 it.

3 Q Well, you make a good point. Other than
4 what you may have learned, do you --

5 A I don't have any recollection beyond -- I
6 don't have any -- again, it's one of those things I
7 don't remember what I knew and when I knew it. That
8 was certainly an issue that developed during the
9 course of or in the aftermath of Vince's death.

10 But I don't remember what I knew and when
11 I knew it.

12 Q Okay.

13 A It's a sense, you know, it sort of evolved
14 and certainly one that I have now in hindsight.

15 Q Well, I think we have established from
16 your notes -- tell me if I am wrong -- at some point in
17 time, you were told that there was a disagreement?

18 A Sure.

19 Q And you don't recall today whether you
20 knew that on July 30, 1993?

21 A Again, I don't recall how -- specifically
22 how I learned what I knew, but my sense was that this

1 was a sense that developed in the aftermath of
2 Vincent's death.

3 Q Was there a conscious effort on your part
4 to not disclose to the press or anyone else the fact
5 of there being tension between the White House and
6 the Justice Department on the handling of the
7 investigation?

8 A I don't know that there was -- I mean I
9 don't specifically remember in this case. It's not
10 the kind of thing that you go out of your way to
11 discuss, but it also is the kind of thing you expect
12 to get questions on and the kind of thing that you
13 answer questions on to the best of your ability.

14 It is not the kind of thing that I would
15 ever put out a press release about, but certainly the
16 kind of thing that if there's a story in the paper in
17 the morning that I would expect to be asked about.

18 Q And what this document tells us is
19 accurate is that on July 30, 1993, you were asked
20 about that?

21 A Sure.

22 Q And if you had known about the tensions

1 between the White House and the Justice Department,
2 would you have told the press that in your response?

3 A Well, I think I --

4 MR. ROMATOWSKI: That calls for
5 speculation. It really gets to speculation, doesn't
6 it?

7 THE WITNESS: Yeah.

8 MR. ROMATOWSKI: If she would have known,
9 then she would have told?

10 MR. JOHNSON: Well, her previous answer
11 was, I think, if not speculative, generic. "It's not
12 the kind of thing you would do."

13 MR. ROMATOWSKI: That speaks to matter of
14 practice.

15 MR. JOHNSON: Okay.

16 THE WITNESS: Right.

17 MR. JOHNSON: Then let me ask this
18 question as a matter of practice.

19 BY MR. JOHNSON: (Resuming)

20 Q If, in fact, you did know on July 30 about
21 these tensions that we have been describing, would
22 you have told the press about it?

1 MR. ROMATOWSKI: Well, that doesn't call
2 for practice. That calls for speculation as to a
3 particular set of facts.

4 THE WITNESS: Right. Let me
5 say this about it: It's not the kind of thing that
6 the White House, that any White House, goes out of
7 its way to elaborate on in a briefing from the
8 podium. It's just not.

9 I mean my answer in that, I think, is
10 typical of the way those kinds of answers, for better
11 or worse, are answered in White House briefings, and
12 not just in the Clinton White House but in previous
13 White Houses.

14 You say, "It was our view in the White
15 House that we were doing what we could to cooperate
16 with ongoing investigations." That's the answer that
17 I gave.

18 That is consistent with the way those
19 kinds of questions are answered at press briefings.

20 BY MR. JOHNSON: (Resuming)

21 Q Consistent with that, was it important to
22 you to -- strike that.

1 Were there any discussions about the
2 importance of having it appear to the press and to
3 the public that the White House was cooperating fully
4 with Mr. Foster's investigation?

5 A Because that was what we were, in every
6 respect, trying to do, I think that we were trying to
7 report accurately on our view of how the
8 investigation was proceeding.

9 Everybody who was, throughout the process,
10 everybody that was questioned by the Park Service
11 Police cooperated fully. We were as forthcoming as
12 we could be with the understanding that certain
13 documents were protected by privilege, to show
14 investigating agencies what was in Vince's office.

15 We were as forthcoming as we could be,
16 given that it was an ongoing investigation which the
17 White House was not -- it would have been a breach of
18 the investigation in many ways for us to say things
19 that we might have known.

20 We learned that the hard way. We had been
21 through this once before, you have to recall, with
22 the travel office in disclosing details of ongoing

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1 investigations, perhaps inappropriately. We were
2 being very careful. That is -- that is not only
3 appropriate but it is prudent in these kinds of
4 situations not to say too much about ongoing
5 investigations.

6 So were we trying to communicate our very
7 earnest attempt to cooperate with this? You bet we
8 were.

9 But were we also trying to protect people
10 who were involved in the investigation? Of course.
11 That was not only in our interest but it was our
12 responsibility and our obligation.

13 Q Now let me just understand some of this.
14 You testified earlier that you believed it was
15 important, it was your understanding that it was
16 important that the Justice Department be the point of
17 contact for this investigation --

18 A Correct.

19 Q -- because I think you said it might seem
20 inappropriate to the press or to other investigating
21 agencies if the White House was the point of contact
22 into an investigation into itself. Is that correct?

1 A Correct.

2 Q And was there ever any discussion of the
3 fact that if you publicly disclosed that the point of
4 contact agency, the Department of Justice, was
5 unhappy with the White House handling of the
6 investigation, that that would create an impression
7 of inappropriate --

8 A It's not the kind of thing that you
9 publicly disclose.

10 Q I guess my question is: Why?

11 A Why? Why do many of the traditions that
12 exist in Washington exist? I don't have a good
13 answer to that.

14 I could give you a political answer, but I
15 don't know that this is the appropriate forum.

16 Was it my responsibility, or was it in
17 anyone's interest for me to walk out there and say,
18 "We're having a spat with the Justice Department
19 here"? That wasn't really what was happening either.
20 That was how the Justice Department was
21 characterizing it. That does not necessarily mean
22 that's how we viewed it.

1 I think people in the White House had
2 other responsibilities, which was to protect the
3 attorney-client or to preserve the attorney-client
4 privileges that might have existed. I am not a
5 lawyer. I didn't go through the documents in Vince's
6 office. I have no idea which ones may have been
7 protected by privilege.

8 That was a judgment the counsel's office
9 had to make. That was a judgment that they -- it was
10 their not only, again, not only their responsibility
11 but their obligation to exercise that judgment in the
12 interest of their client, the President of the United
13 States, or the presidency, to be more accurate, I
14 think.

15 So I think we had different points of view
16 about what was happening.

17 Q And to come back to your first point, it
18 wasn't, for whatever reasons --

19 A We weren't trying to hide anything, but I
20 don't think we necessarily agreed with the
21 characterization of the Justice Department, and
22 that's why I didn't go up there and say -- what I did,

1 what my job was was to provide the point of view of
2 the White House. I think that was reflected in my
3 answer to that question, which was something to the
4 effect that we're doing everything we can to
5 cooperate with ongoing investigations, including
6 working with the Justice Department.

7 That doesn't mean we always agree, even if
8 the Justice Department is established as a point of
9 contact. It doesn't mean that they're necessarily
10 making all the decisions about what the White House
11 should and shouldn't do.

12 It means that they're a point of contact.
13 It means that they're a separate entity for other
14 federal agencies to work with so that they don't have
15 to work with the White House, so that all of those
16 political questions don't become part of the soup.

17 Q And it was not your personal intention to
18 create the public impression that the Justice
19 Department, and not the White House, was running the
20 investigation?

21 A I wasn't trying to create any impression.
22 I was trying to -- well, I don't know if that's ever

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1 true.

2 What I was trying to do was reflect the
3 White House's view of how the investigation was
4 proceeding, which was that we were doing everything
5 we could to cooperate, that the review of Bernie's
6 office -- I mean of Vince's office happened for a
7 reason.

8 We weren't being obstructionists. We were
9 protecting attorney-client privileges that exist.
10 That is their obligation of the counsel's office.

11 Q I understand that part. Maybe I am
12 getting tired, and I apologize.

13 Maybe my question is a little bit
14 confusing. I am not really questioning the
15 appropriateness of the handling of the documents.
16 What I am trying to inquire --

17 A But that is what the Justice Department
18 was upset about. We had a different view about
19 whether or not that we were controlling the
20 investigation too tightly.

21 Q And my question is: Was it your personal
22 objective to cause the press and the public or others

1 to believe that the Justice Department, and not the
2 White House, was running the investigation?

3 MR. ROMATOWSKI: There is an assumption in
4 that question. I am not sure it's a fair
5 characterization.

6 MR. JOHNSON: What is it?

7 MR. ROMATOWSKI: That is that the White
8 House was running the investigation.

9 BY MR. JOHNSON: (Resuming)

10 Q Who was running the investigation?

11 A The Park Police at that point.

12 Q Okay.

13 I think you have testified earlier that
14 the Justice Department, your notes indicate, had
15 expressed concern, dissatisfaction, that the White
16 House had exercised too much control in the
17 investigation. Is that your understanding?

18 A That's reflected in my notes, yeah.

19 Q Okay.

20 So, without implying anything at all, my
21 question is: Did you have a personally as your
22 objective to suggest to the press or the public that

1 the Justice Department was in charge of this
2 investigation?

3 A No. It was -- I believe and still believe
4 that the Park Service Police was in charge of the
5 investigation and that the Justice Department was
6 serving as a point of contact, a refereeing function,
7 if you will.

8 It was also my intention and my goal to
9 try to communicate what the White House was doing and
10 why, but not to establish -- I think the Justice
11 Department had made their view of this clear in the
12 morning papers. I didn't need to explain the Justice
13 Department's view of this. It was all over the
14 Washington Post.

15 I am sure that -- I don't remember
16 specifically, but I would bet dollars to donuts that
17 if I went back and read that, it also included folks
18 from unnamed Park Service officials expressing their
19 view.

20 I didn't need to speak for them. It's not
21 my job to speak for them in situations like this. It
22 was my job to speak for the White House.

1 Q Is that all?

2 A Um-hmm.

3 Q I may have asked you this, and if I have,
4 I apologize. But let me just ask you directly: Am I
5 correct, therefore, that consistent with your job
6 speaking for the White House and all that you have
7 said, you did not wish to reveal at least from your
8 podium, that there had been disagreements between the
9 Justice Department and --

10 A I didn't wish to reveal or conceal. I
11 didn't -- that wasn't part -- it was in the papers. It
12 is a subtext of this whole briefing. I didn't need
13 to reveal that. I didn't need to discuss it. Again,
14 it's not the kind of thing that you need to go out
15 there and say.

16 It's an assumption upon which the
17 questions are based. The Justice Department has made
18 it clear. It's not my -- I am not trying to hide it, I
19 am not trying to reveal it. I am just responding to
20 questions based on fact revealed by the Justice
21 Department in the newspaper.

22 Q Okay.

1 The next question that appears on page 257
2 of this same deposition exhibit is: "Was that the
3 only time any White House official had gone through
4 those documents?"

5 Answer: "That was the first time, and I
6 believe then an associate counsel catalogued the
7 documents in the files in Vince's office."

8 A Correct.

9 Q Why did you not reveal at that time that
10 Mr. Nussbaum had been in the office?

11 A Because the question was had anybody been
12 through the documents, and the answer was "no."
13 Bernie didn't go through the documents when he was in
14 Vince's office, to the best of my knowledge.

15 Q And what is the basis of that knowledge?

16 A Bernie called me, as I think I said
17 earlier, Bernie said that he had gone in and looked
18 on the surfaces in Vince's office to see if there was
19 a note. He hadn't gone through the documents, to the
20 best of my knowledge. I still believe that to be
21 true.

22 Q Obviously, he had to have looked at

1 something to see if --

2 A He looked on the surfaces, on the surfaces
3 of his desk, was there anything on his desk, is there
4 anything on his computer. He had a coffee table and
5 a couch in his office. He had another little side
6 table, was there anything on top of those. Is there
7 something hanging from the ceiling, posted on the
8 door? Is there a banner hanging on the window?

9 I mean there is a lot you can do without
10 going through files. Bernie said he didn't go
11 through the files. I believed him then, and I
12 believe him now.

13 Q What did he say about going through the
14 files?

15 A He didn't say it that night. He said he
16 looked on the surfaces of Vince's desk.

17 Q Prior to after that night, prior to July
18 30, had Mr. Nussbaum told you that he hadn't been
19 through the files?

20 A I don't remember. I think he told me that
21 the first time anybody had been through the files was
22 when he conducted the investigation. I had no reason

1 to doubt him. I still don't.

2 Q Let me direct your attention now to page
3 259 of this exhibit.

4 MR. JOHNSON: Do you happen to have a
5 transcript of the same briefings? Maybe we could
6 save some time.

7 THE WITNESS: I do. I think I have this.

8 MR. ROMATOWSKI: I think I have one. I
9 think we've got another copy besides the marked-up
10 one.

11 THE WITNESS: I have one that's not marked
12 up, I think.

13 (Pause.)

14 MR. ROMATOWSKI: Is it the same date, the
15 30th? What page is it on?

16 MR. JOHNSON: Page 7.

17 THE WITNESS: Thank you.

18 BY MR. JOHNSON: (Resuming)

19 Q My question is why don't you take a moment
20 to review the first full question and answer.

21 A On page 6?

22 Q Well, it's on page document No. 259 in my

1 exhibit.

2 MR. ROMATOWSKI: Page 7.

3 THE WITNESS: 7.

4 (Pause.)

5 BY MR. JOHNSON: (Resuming)

6 Q Just an effort to perhaps refresh your
7 recollection with some more contemporaneous record
8 about some things that we talked about earlier. This
9 answer suggests, unless I am misreading it, that you
10 told the press on that day that it was Mr. McLarty
11 who suggested that we needed to make sure that
12 Vince's office isn't disturbed.

13 Do you recall that it was Mr. McLarty who
14 did that?

15 A No. I don't recall specifically who it
16 was.

17 I remember many people were in and out,
18 and I remember speaking with Bernie about it, but I
19 don't remember who specifically the order came from.

20 Q Okay. Given that this press briefing was
21 just a few days after that event, is it your best
22 guess today that your recollection on July 30 about

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1 who said that was maybe better than it is today?

2 MR. ROMATOWSKI: I am going to ask you not
3 to give a best guess.

4 If she has a recollection, she can tell
5 you.

6 THE WITNESS: I mean I think the
7 transcript speaks to what my impression was at the
8 time. As of today, I just don't remember.

9 BY MR. JOHNSON: (Resuming)

10 Q There isn't any reason that you know of
11 that this would be inaccurate as to what you thought
12 on that day. Is that correct?

13 A I would think generally it reflects my
14 best information at the time.

15 Q Now, the First Lady gave, apparently, a
16 press conference on April 22, 1994, on a number of
17 topics generally relating to Whitewater.

18 Were you physically present during that
19 press conference?

20 A No. I think I might have stepped into the
21 room. There was a lot going on at the White House
22 that day, and I think I watched part of it on TV in

1 my office, and I think I might have been in there for
2 a few minutes, but I didn't stay for the whole thing.

3 Q Okay.

4 Do you recall whether or not you ever
5 reviewed a transcript of the press briefing?

6 A No, but I -- I mean I don't remember ever
7 reviewing a transcript, but I think I listened to
8 most of it at the time and certainly read numerous
9 news accounts and discussed with a lot of staff
10 people that particular incident.

11 I talked to Mrs. Clinton about it at some
12 point, I am sure.

13 Q Do you recall that you did speak with
14 Mrs. Clinton about it?

15 A I thought she did a good job, and I
16 remember telling her that at some point.

17 Q You don't remember any more detailed
18 discussion about than that.

19 A No.

20 Q Let me show you an exhibit which appears
21 to me to be a transcript of that press conference.
22 It is a document No. 000096 through 114. I am

1 referring to page 12 of that exhibit, which bears
2 document production No. 107.

3 If I could just ask you if you would,
4 please, to read the question and to follow, "Why did
5 your chief of staff, Maggie Williams, why was she
6 among those who removed those documents from his
7 office," and Mrs. Clinton's response to that
8 question.

9 (Pause.)

10 Do you see that?

11 A Um-hmm.

12 Q Let me also show you a document bearing
13 document production No. 000577 through 593, which
14 appears to be a transcript of a White House press
15 briefing conducted by you on August 2, 1994.

16 Let me just ask you if you recognize that
17 as a transcript of that?

18 A Yes.

19 Q Specifically, you were asked in that press
20 briefing about certain comments that the First Lady
21 had made in her April press briefing and subsequent
22 developments.

1 I will try and find these.

2 Excuse me.

3 (Pause.)

4 It's on page 578 of this exhibit, which

5 appears to me to be the second page.

6 MR. JOHNSON: Richard, do you have that?

7 Since we are all reading off the same

8 thing, I will just read it to you, and feel free to

9 consult.

10 BY MR. JOHNSON: (Resuming)

11 Q The question:

12 "Dee Dee, is the First Lady now prepared

13 to revise the statement she made in her news

14 conference on April 22 that Maggie Williams did not

15 remove any documents from Vince Foster's office but

16 that, in fact, the documents were simply transferred

17 to lawyers, as Bernard Nussbaum had suggested was

18 appropriate? Apparently, Ms. Williams has made it

19 plain that, in fact, documents were in the residence

20 safe for five days and were taken there at Mrs.

21 Clinton's direction by Ms. Williams. Is the First

22 Lady now going to revise what she said?"

1 Then, if you need to refer to it, your

2 response below it is:

3 "I think that it is true that Maggie

4 didn't remove any document from Vince's office. They

5 were removed by Bernie Nussbaum."

6 Did you believe that statement was true

7 then?

8 A I still believe that that statement is

9 true.

10 Q To the best of your knowledge, it was

11 Mr. Nussbaum who removed documents from that office?

12 A Correct.

13 Q Did you have any understanding at that

14 time of whether or not documents had been taken to

15 the residence?

16 A I did not. I don't recall learning about

17 that until I read it in the newspaper.

18 Q Okay. And you don't know today whether or

19 not it was Ms. Williams who took those documents to

20 the residence?

21 A No. It was. I mean I have talked to

22 Maggie about it subsequently.

1 But I think the implication of the
2 question is that Maggie went in there and decided
3 what documents to take, which is not at all what
4 happened.

5 Q Okay. Well, what do you think happened?

6 A I think that as Bernie told me, other
7 people told me at the time, I guess I don't remember
8 exactly who, that Bernie went to the documents and
9 decided -- and to categorize them in one of three ways:
10 personal documents belonging to the Fosters, to
11 Vince, were given to the Fosters' lawyer; documents
12 relating to White House counsel's office work were
13 redistributed among other attorneys; and then
14 personal effects of the Clintons, such as documents
15 about their blind trust, were to be turned over to
16 the Clintons' lawyer.

17 Now, because they couldn't get a hold of
18 the Clintons' lawyer, who was on -- it's not exactly
19 clear to me what the status of those lawyers was at
20 the time. I don't remember.

21 But, anyway, everyone was on their way to
22 Arkansas for the funeral. Bernie gave the documents

1 to Maggie for safekeeping over the weekend.

2 Q Was it your impression that Ms. Williams
3 played no role in deciding what, if any, documents
4 should be removed to the residence?

5 A Absolutely my impression. It's based on
6 conversation with Maggie in the summer of '94.

7 Q Ms. Williams told you that Mr. Nussbaum
8 made that decision?

9 A Simply gave -- I don't -- I don't want to
10 speak for Maggie.

11 My recollection is that she says she never
12 even looked in the box. She was just given documents
13 that were to be turned over to the Clintons' lawyer
14 and she took those documents and whatever they were
15 in, boxes, a box, two boxes, I don't remember how
16 much, and took them over to the residence and locked
17 them in a closet because everyone was leaving town to
18 go to Vince's funeral.

19 Q Did she say why she took them to the
20 residence as opposed to some other place?

21 A She -- I don't remember who she spoke to.
22 Somebody at the residence suggested that there was a

1 place that hey could be locked up and kept safely
2 over the weekend.

3 Q There must be lots of places in the White
4 House that they can be locked up and kept safely.

5 Did you have an understanding of why the
6 residence?

7 A No, there aren't a lot of places that
8 things can be locked up and kept safely. I mean this
9 was the Clintons' personal effects, and I think the
10 residence seemed like an appropriate place to put
11 them.

12 Q Would you know whether or not there was a
13 lock on the door to Mr. Foster's office at that time?

14 A I don't know. I didn't know then. I
15 don't know now.

16 Let me just point out, for context, this
17 is something I talked to Maggie about. This was not
18 an issue at this point. It was something that had
19 come up during the campaign. It didn't come up again
20 until the fall.

21 It wasn't like -- if you take this in the
22 context in which it happened, these were documents

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1 that the White House counsel had decided were among
2 the personal effects of the Clintons, they should be
3 turned over to the Clintons' lawyer. They were, I
4 believe, although I am not 100 percent certain, they
5 were pertaining mostly to legal issues.

6 I don't know what all was in there.

7 I do know there were some documents about
8 the blind trust, or I believe there were some.

9 People were leaving town to go to the
10 funeral of a man who had been a friend of the
11 President and First Lady for a lot of years. So the
12 documents were taken. Maggie took them on behalf of
13 the President and First Lady to a residence where
14 they could be kept safely. That's what happened.

15 Q And on what do you base that understanding
16 of what happened?

17 A Conversations with Maggie, being there at
18 the time.

19 Q Well, when you say --

20 A I didn't know -- I understand what was going
21 on in the White House. I don't know about the
22 documents. But I certainly understand the context,

1 both political and press, in which this all occurred.

2 Q Now, when you say conversations with
3 Maggie, at or about the time that these
4 conversations, you spoke directly with Ms. Williams?

5 A Of course. I mean I read the story in the
6 paper, and I talked -- I spoke to her about the chain
7 of custody of the documents.

8 Q When you gave the answer that you gave at
9 the April 2nd press conference, did you know whether
0 or not -- strike that.

1 Did you know that the documents had been
2 placed in the residence?

3 A There was a story in the newspaper. I
4 don't remember if it was that morning. It might have
5 been like the Saturday, and this was Monday. I can't
6 remember. But, yes, I knew because I had read it in
7 the Washington Post.

8 Q And I may have also asked you this. I
9 also apologize. It is your understanding, based upon
0 your conversation with Ms. Williams, that
1 Mr. Nussbaum alone decided what documents should be
2 removed from Mr. Foster's office?

1 A That's my understanding.

2 Q Did Ms. Williams say to you specifically,
3 "I wasn't there. I played no role in that," words to
4 that effect?

5 A I don't remember, but that is certainly my
6 assumption, based on my recollections of who was
7 there when Vince's effects were gone through that
8 day, which is in my memory and also in my notes.

9 Q Was it your understanding when you made
10 this statement, that the only time those effects had
11 been gone through was during the review of
12 Mr. Foster's office by Mr. Nussbaum on July 22nd?

13 A Essentially. Yeah. I don't really know,
14 actually, who was -- how the documents were physically
15 divided up. But it is my impression that Bernie made
16 the decision and that he went through a lot of those
17 documents in the presence of other federal officials.

18 But I don't know that he didn't go through
19 them again later. I'm not sure how that happened.

20 Q That was really my question. You don't
21 have any information one way or the other about
22 whether he went back in the office later?

1 A Yeah. No, I don't know.

2 Q One of the things you said when you were
3 putting in context your response is that Whitewater
4 was not on the screen at this time, that it had come
5 up in the campaign.

6 What screen are you referring to?

7 A Every screen. It wasn't a press issue.
8 It wasn't something the people in the White House
9 were concerned about at that time.

10 It was something that had come up during
11 the campaign and had been, in our view, answered and
12 was not something that was front and center. It
13 wasn't something that we were dealing with on a
14 day-to-day basis.

15 Q Now, when you say people in the White
16 House, were not concerned about it, did Mr. Nussbaum
17 ever tell you that he was not concerned about
18 Whitewater?

19 A We didn't talk about it.

20 Q And you don't know whether or not
21 Mr. Foster was concerned about Whitewater?

22 A I had never talked to him about it.

1 Q So when you say people in the White House
2 weren't concerned about it, what people are you
3 talking about?

4 A Well, generally people talk about things
5 they're concerned about. That's generally how we
6 make those determinations. When something is a big
7 issue, it gets talked about at meetings, it gets
8 talked about in private conversations. Whitewater
9 was not something that was coming up.

10 So I suppose it's possible people were
11 secretly concerned about it, but it wasn't something
12 that was being dealt with on a par with things like
13 the budget, the travel office, a million other
14 things, Bosnia, Haiti, that were on the screen and
15 being dealt with and being asked questions about.

16 I mean read these press transcriptions.
17 There's no questions about it. Whitewater isn't a
18 dominant theme. There's a hundred things that come
19 up, and that's just not one of them.

20 Q And really that's what you're basing your
21 view that it wasn't on the screen?

22 A I am basing my view on I was there at the

1 time and lived through not only the press part of it
2 but the internal conversations, and it wasn't
3 something that was a big issue at the time. It just
4 wasn't.

5 Q Did you ever ask the First Lady whether or
6 not Whitewater was something that she was concerned
7 about?

8 A Not at that time.

9 Q Since that time, have you ever asked her?

0 A I didn't need to ask her since that time,
1 since it was --

2 Q She obviously later became concerned with
3 it?

4 A Later it became a very big issue. It was
5 something that we dealt with every day.

6 Q What about at or around the time of
7 Mr. Foster's death, did you ever ask the First Lady
8 whether or not Whitewater was on her mind or a
9 concern for her?

0 A No, because it wasn't on my mind or, in my
1 view, the minds of the people in the White House. It
2 wasn't, again, it wasn't a big issue.

1 There may have been some lingering legal
2 things that had to be cleaned up. I don't know the
3 answer to that.

4 But I certainly think I was in a position
5 to judge what were the big issues that were being
6 dealt with by the White House, and I think that it's
7 safe to say, at least from my perspective, that that
8 was not one of them.

9 That's not to say that nobody ever thought
10 about it. I don't know. I didn't.

11 But, again, I think I was in a position to
12 know what the big issues were and to say that that
13 was not one of them.

14 MR. BEN-VENISTE: Off the record.

15 (Discussion off the record.)

16 BY MR. JOHNSON: (Resuming)

17 Q I just have one more.

18 Let me show you a document that bears the
19 document production numbers Z000096 through Z000095.
20 How is that possible? I misspoke. The first
21 document is numbered 90 through 95.

22 I ask you whether or not you have ever

1 seen this document before?

2 A I don't believe so. I don't remember ever
3 seeing it.

4 We might have done better if we had
5 something on this page.

6 Q You don't have any understanding at all
7 today about what this document is?

8 A Well, it looks like a couple of different
9 things, actually.

10 Q Maybe you can just tell me what you think
11 they are.

12 A This is a Q&A, I suspect. It's the Boston
13 Globe submitted questions and answers -- questions in
14 writing and the First Lady has obviously submitted
15 answers.

16 This, I have no idea, since there's
17 nothing on the page.

18 Now, sometimes -- this -- I mean a lot of
19 these kinds of documents were prepared by the White
20 House to inform people. It's some sort of internal
21 staff documents.

22 Q Okay.

1 A But just to give people, you know, people
2 hearing charges, people who deal with this, what the
3 facts are.

4 Q Just so the record is clear. It doesn't
5 have any way of understanding what you and I were
6 talking about. So when you say "This was prepared,
7 perhaps for the Boston Globe," I take it you are
8 referring to the first one, two, three, four pages of
9 this exhibit?

10 A Well, no, because this, I don't know that
11 that is. The first two pages appear to be --

12 Q Okay.

13 A -- submitted, questions and answers,
14 written questions submitted by the Globe and answered
15 by the First Lady's office.

16 That was something that has been redacted,
17 I guess, because we weren't in whatever it said.

18 Q Okay.

19 A I don't know what that is.

20 And this looks like these last two pages,
21 94 and 95, appear to be the kinds of things that were
22 from time to time prepared by the White House staff,

1 different people. This may have been prepared by
2 somebody in the counsel's office, explaining relevant
3 points about something that might have been going on.

4 I don't remember, but that doesn't look
5 like something that was prepared for -- it looks to me
6 like something that was prepared for internal use,
7 not for any kind of public distribution.

8 Q I take it you played no role in the
9 preparation of the first several pages of this?

10 A No.

11 Q Okay.

12 What about page 94, which you just said
13 was prepared for internal use, do you think you
14 played any role in the preparation of that?

15 A I may have reviewed it. I don't remember.

16 MR. JOHNSON: Okay. I apologize for
17 taking so much time. Thank you very much. You have
18 been very cooperative.

19 Mr. Ben-Veniste may have a few questions,
20 and at the end I will say a word about
21 confidentiality.

22 THE WITNESS: Okay.

1 MR. BEN-VENISTE: I will be brief.

2 EXAMINATION

3 BY MR. BEN-VENISTE:

4 Q Let me direct your attention to S. 11.

5 (Pause.)

6 It says, "Monday, put into safe." Does
7 that refer to Mr. Nussbaum putting the torn-up pieces
8 of the note into a safe, to the best of your
9 recollection?

10 A My recollection about this is a bit fuzzy.
11 But I do believe -- I sort of recall that question came
12 up about what happened -- pieces of a note were
13 discovered on Monday -- what happened to them, where
14 were they kept overnight. And the answer was in a
15 safe in the -- someone in the counsel's office.

16 Q In response to questions earlier about the
17 Department of Justice's role, which you have
18 described as being a coordinating agency, there was
19 some discussion of the appearance of a conflict or
20 conflict of interest.

21 In this regard, let me ask you
22 specifically whether you had any reason to believe

1 that the Park Police was conducting any investigation
2 of the White House?

3 A No. I don't remember thinking that.

4 Q So, from the standpoint of whether there
5 would be any conflict occasioned by the White House
6 taking some action in connection with controlling an
7 investigation when it itself or persons therein were
8 the subject of an investigation, that was not the
9 case, to the best of your recollection --

10 A That's correct.

11 Q -- in July of '93?

12 A I don't think anybody at the White House
13 was ever a subject of investigation, although there
14 was information at the White House that the Park
15 Service Police and perhaps other investigating
16 agencies would need.

17 I think it was an open question at that
18 time as to whether there would be any subsequent
19 investigations.

20 Q With respect to your answers to questions
21 about a press conference that you gave wherein you
22 discussed the issues of securing the office, and this

162

1 was a conference at 7:59, I believe.

2 I am having difficulty locating that. Let
3 me just take a moment.

4 (Pause.)

5 I may have written down the wrong document
6 number.

7 But as of, let me ask you, as of July 20,
8 and the information that you either new or received
9 shortly after in the discovery of Mr. Foster's
10 suicide, what was your understanding about whether
11 the counsel's office on the second floor of the West
12 Wing had an exterior lock that controlled entry to
13 the counsel's office or the counsel's suite itself?

14 A All the -- most, I think, without exception,
15 probably, although I don't know, most of the suites
16 lock onto the main hallways.

17 Q Did you understand that there was such a
18 lock on the counsel's office?

19 A Yes.

20 Q Did you also understand that as some of
21 the offices do but others do not, in fact the
22 counsel's office was fitted out with an alarm system

1 in addition to the exterior lock?

2 A That was my impression.

3 Q So that in terms of the security of the
4 office, it was your understanding that in addition to
5 the regular security measures at the West Wing of the
6 White House which would prevent, one would hope,
7 unauthorized people from entering the West Wing,
8 there was in place a locking mechanism to exclude
9 nonauthorized persons from the counsel's suite and,
10 in addition, there was an alarm mechanism which would
11 provide additional security for that office?

12 A That was my understanding.

13 Q Was it your understanding, as reflected in
14 your answer to that question in the news conference
15 about which you testified, that when people from the
16 counsel's office left on the night of the 20th, it
17 was expected that they would have locked the door and
18 armed the alarm system?

19 A That was my expectation.

20 MR. BEN-VENISTE: I have nothing further.

21 MR. JOHNSON: Thank you, Ms. Myers. Thank
22 you and your counsel for your patience.

1 Mr. Ben-Veniste will join me in the
2 committee's request.

3 The confidentiality of these proceedings
4 is extraordinarily important to the committee and
5 the staff, and we would be grateful if you wouldn't
6 discuss your deposition here today with anyone.

7 THE WITNESS: Okay.

8 MR. JOHNSON: Thank you very much.

9 THE WITNESS: Thank you.

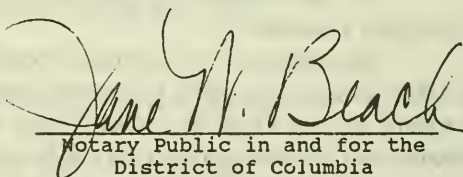
10 MR. JOHNSON: Off the record.

11 (Whereupon, at 5:35 p.m., the taking of
12 the deposition ceased.)
13
14

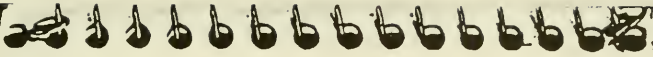
15 DEE DEE MYERS
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22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 1996



WIRELOCK WIRE WILL NOT SCRATCH DESKS OR SNAG CLOTHING

Name D. MYERS
Book#
From JULY 15, 1993
To



NOTE-PERFECT™

Reporter's
NOTEBOOK



0

8

4" x 8"
70 sheets white paper
Pitman/wide ruling
with faint interline

reorder # 25-281

300001

- How long will it take
 - Computer search files & records
 - alleged Wash Times
-

- Park Police conducting routine invest.
- Confirm their previous invest.
- interview various staff-members
- Look into Vince's ex
- Justice Dept:

- Park Police -

- ~~xxxx~~

Wash Post

FA

S00002

2 hrs

USSS

Park Pol

Justice.

FBI

~~Super~~facilitated
by Bonnie.

- thorough search with
~~factor~~ ~~of Earnest~~

Search Designed
to see if there
was any downward
bearing on the
death.

~~No~~ (Did not)
~~No~~ ~~fact~~
No

No document

S00003

Office unsealed

4-agencies: Justice (2)

- 1 FBI
- 2 USSS
- 2 park police

facilitated by

- Bernard Weiss
- Bill Burton
- lawyer rep.

Foster Family

- Office thoroughly searched
- No suicide note found
- Fosters personal files
separated from wlt files
given to VNF atty.
promised to preserve
in connection w/
investigation (lease
on house / bank statement)

Bernie renewed
work doc
to see if
there was anything
that might
bear on his
death.

— Office was sealed
10 am Wed.

— People went in
(Bernie)

Search conducted by Counsel
(Unsealed in presence
→ of all these Fed
agents)

No suicide note or
any other doc
bearing on his death

WIRELOCK® WIRE WILL NOT SCRATCH DESKS OR SNAG CLOTHING

Name D. MYERS

Book# _____

From JULY 28, 1993

To Aug 5, 1993



NOTE-PERFECT™

Reporter's

NOTEBOOK



4" x 8"
70 sheets white paper
Pitman/wide ruling
with faint interline

reorder # 25-281

500006

↳ They asked us
to go turn his
computer,
phone log, etc
& turn over relevant
information

↳ Search lasted
2 1/2 hours

↳ 3 piles work,
personal, stuff
they could have
questions about

↳ Bernie emptied
brief case, reviewed
contents

- On Monday, Bernie asked Steve to inventory Vince's working files.
- He also placed Vince's remaining personal effects into a box.

[note: office was
closed Thurs
afternoon.

No one was
in again
untill Mon. am]

- approx 4 pm
Monday, Steve was
finishing packing



Vince's personal
effects, turned
brief case over,
scrap floated out.

— Steve recog. Vince's
hand writing.

— Pieces then
together

— put pieces
into envelope
turned over to
Park Police

— L. J. Megby, Jr.
Detective

— also gave
transcript to
Justice

Monday - put
into safe.

- Bernie went to see Mack; he was out of town (Chicago)
- Told Mack
- Lisa was in L.R.; was scheduled to be back in D.C. Tues.

Tuesday

- Bernie told Lisa ^{John Sloan, (ex ceutor), Tim} Tue afternoon,
- Mack told POTUS that evening

XXXXXXXXXXXXXXXXXXXX

— Called in ^{Deputy &} AG, Janet
 Park Service Phil
 Police

— POMS aware
 of contents,
 but has not
 read

→ mtg set up by
 Mack's ofc

WHY: AG's ofc - Justice
 served as
 pt of contact

— Justice recommended
 that it be turned
 over to Park Police,
 called detective,
 he came, got it

HEYMAN

- Webb not consulted
- leave release in hands of investigators
- want to look @ circumstances, its surrounding note + its discovery
- once they have satisfied selves that as to circumstances they'll make a decision
- DOJ recommends: all goes forward
- Would not interfere
- sense: WTT has exercised too much control over investigation

- It has aroused suspicion ...
we should do everything in power
- Heyman/Reno have had strong disagreement over way this has all been handled
- Invited ~~to~~ AS / Dep AS turned over to them @ 715
- Park Police called

S00014

- Who did write
order...
- why not done?
- Who else went
in & why?
- office tampered
w/ ?
How do you
know?
- Is the FBI
investigating
- Is it sealed
now? guarded?

SUC015

**DEPOSITION OF NANCY E. McFADDEN
IN RE: S. RES. 120**

FRIDAY, JULY 7, 1995

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.**

Deposition of NANCY E. McFADDEN, called for examination pursuant to notice of deposition, at 1:45 p.m. in Room 116-A of the Hart Senate Office Building, before DAVID L. HOFFMAN, a Notary Public within and for the District of Columbia, when were present:

**EVERETT C. JOHNSON, JR., Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.**

**PAUL J. FISHMAN, Esq.
CHARLES J. SGRO, Esq.
Special Assistants to the Deputy Attorney General
U.S. Department of Justice
Tenth Street & Constitution Avenue, NW
Washington, DC 20530**

**DAVID OVERLOCK STEWART, Esq.
Ropes & Gray
1001 Pennsylvania Avenue, NW
Suite 1200 South
Washington, DC 20004
On behalf of the Deponent.**

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Errata 2823

PROCEEDINGS

(1:45 p.m.)

Whereupon,

NANCY E. MCFADDEN

was called as a witness herein, and having been first
duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. JOHNSON:

Q Good afternoon, Ms. McFadden.

We've met briefly off the record.

Let me take a second, for the benefit of
the record, to introduce myself.

My name is Everett Johnson and I'm one of
the attorneys representing the Republican Staff of
the Special Senate Committee investigating Whitewater
and related matters.

What brings us here today is Senate
Resolution 120, which creates the Committee and
authorizes investigation into certain matters related
to Whitewater.

In particular, the thing we're looking at,
for purposes of today's deposition, is the

4

investigation into the death of Vince Foster on or
about July 20, 1993, specifically the handling of the
documents in Mr. Foster's office at about that time.

So the questions that I ask you, or that
Mr. Cole may ask you, will all relate hopefully
generally to that topic.

You are obviously an experienced attorney
so I feel silly reviewing some procedures but at
least to perhaps remind ourselves together about how
we can be efficient, as you know, a verbatim
transcription of our proceeding here today will be
made, so it's useful if you try not to speak
simultaneously and it's useful if we try and
communicate verbally rather than with gestures or
nods.

You're represented by counsel here today.
If, at any time, you wish to confer with your
counsel, feel free to do so.

I'll try and be clear in the questions,
and when I fail, there are a number of people around
the room who will point that out to me, but I'll
trust you to be one of them and tell me that you

1 don't understand the question.

2 If in fact you don't understand the
3 question -- as a preliminary matter, let me ask you
4 if you've been deposed before -- I don't mean
5 necessarily in connection with this matter -- whether
6 or not, in preparing for your deposition here today,
7 you've had an opportunity to meet with anyone and
8 discuss the testimony you're going to give?

9 MR. STEWART: Other than counsel?

10 THE WITNESS: Other than counsel?

11 BY MR. JOHNSON:

12 Q If you've met with counsel, say so, and
13 then I'll ask you about other meetings.

14 A I've met with counsel, and that's it.

15 Q Who was present during your meeting with
16 your counsel?

17 A Just myself and counsel.

18 Q Mr. Stewart and other representatives of
19 Ropes & Gray, or just the two of you?

20 A Just Mr. Stewart.

21 Q Could you take 30 seconds and give us some
22 of your working biography?

6

1 A Certainly.

2 After a Federal clerkship, I worked as an
3 associate at a law firm in Washington, D.C.,
4 O'Melveny & Myers. After four and a half years as an
5 associate, I took a leave of absence from the law
6 firm and worked on a Presidential campaign.

7 Following working on the Clinton campaign,
8 I worked on the Clinton/Gore transition team, and
9 then joined the Justice Department.

10 Q Where did you go to law school and when
11 did you graduate?

12 A University of Virginia 1987.

13 MR. JOHNSON: Off the record.

14 (Discussion off the record.)

15 BY MR. JOHNSON:

16 Q Your Federal clerkship was with whom?

17 A Judge John Wiese here in Washington.

18 Q What was our title in the Clinton
19 Presidential campaign, if you had one?

20 A During the primary season, I was the
21 National Deputy Political Director.

22 During the general election, I was the

1 National Surrogate Director.

2 Q I'll show some, if not all, of my
3 ignorance about campaigns. Are there people that you
4 report to in those campaigns?

5 A Yes.

6 Q As the National Deputy Political Director,
7 to whom did you report?

8 A The Political Director, whose name was
9 Stephanie Solien, S-O-L-I-E-N.

10 Q As the National Surrogate Director, if I
11 said that right, who did you report to?

12 A I reported to George Stephanopoulos and
13 James Carville.

14 Q And what was your role on the transition
15 team?

16 A My primary role was working on setting up
17 the confirmation process for Cabinet officers.

18 Q Did you also have a title on the
19 transition team, or was it not organized in that way?

20 A I had a title and it was probably also not
21 organized in that way. My title was Deputy
22 Communications Director.

1 Q Is there someone that you reported to in
2 that job?

3 A For the majority of the transition, I
4 reported to Howard Pastor.

5 Q P-A-S-T-E-R?

6 A U-R, I believe. Actually, it may be
7 P-A-S-T-O-R, I'm sorry.

8 Q Covering all the possibilities.

9 Then I take it you began work at the
10 Justice Department some time shortly after the
11 inauguration of 1992, is that correct?

12 A Correct.

13 Q And you continue to be employed at the
14 Justice Department today. Is that also correct?

15 A That's correct.

16 Q Why don't you tell me what your title was
17 when you began working there in '92?

18 A When I first began at the Justice
19 Department, I didn't really have a title for
20 personnel purposes. I was termed an assistant to the
21 Attorney General.

22 Subsequent to Attorney General Reno's

1 arrival, I was appointed Deputy Associate Attorney
2 General, which continues to be my title and position
3 to today.

4 Q In your current position, are you a
5 presidential appointee?

6 A No.

7 Q Do you occupy some position with the
8 Justice Department that is other than a career
9 position?

10 Would it be appropriate to call it a
11 political position?

12 A Yes, I'm in a political SES position.

13 Q And your position, I take it, does not
14 require Senate confirmation?

15 A No.

16 Q During the period of time before General
17 Reno arrived, when you said you were an Assistant to
18 the Attorney General, to whom did you report?

19 A Webb Hubble.

20 Q What, if anything, was Mr. Hubble's title
21 at the time?

22 A I think for personnel purposes, he had the

10

1 same title, Assistant to the Attorney General.

2 Q Then as a Deputy Associate Attorney
3 General, did you continue to report to Mr. Hubble?

4 A Yes.

5 Q But Mr. Hubble's title had changed, I take
6 it?

7 A Yes, that's correct.

8 Q What was his title at that time?

9 A He became the Associate Attorney General.

10 Q In lay terms, Mr. Hubble was the number
11 three person at the Justice Department, is that
12 right?

13 A That's correct.

14 Q Mr. Hubble reported to the Deputy Attorney
15 General?

16 A That's correct. I hesitate because the
17 organizational chart has been changed a couple of
18 times.

19 MR. STEWART: It became an issue, as I
20 recall.

21 THE WITNESS: I believe he reported to the
22 Deputy Attorney General at the time.

1 BY MR. JOHNSON:

2 Q And that was Mr. Hyman at the time?

3 A That's correct.

4 Q In a general way --

5 Strike that.

6 Let me just ask you one other question.

7 Had you met Mr. Hubble before you began
8 working at the Justice Department in 1992?

9 A Yes, I had.

10 Q How?

11 A I actually don't remember. We may have
12 met -- I lived for almost a year in Little Rock,
13 Arkansas, but I don't recall meeting him in Little
14 Rock.

15 Q I take it, during the course of the
16 campaign, you never worked with or directly for Mr.
17 Hubble?

18 A No.

19 Q Was it Mr. Hubble or someone else who
20 hired you at the Justice Department?

21 A The White House asked me to join the
22 Justice Department. I'm not sure technically who, I

1 suppose Mr. Hubble being one of the few
2 Administration people at the Justice Department in
3 effect hired me for the Justice Department.

4 Q When you say the White House asked you to
5 join, is it possible to identify a person at the
6 White House who was responsible for that?

7 Or was it more blurred than that?

8 A Bruce Lindsey, the Presidential Personnel
9 Director at that time.

10 Q What I began to ask you earlier was
11 whether you could describe, in a general way, your
12 job responsibilities as Deputy Associate Attorney
13 General.

14 A In general, my job is to deal with those
15 issues that bubble up to the level of the Associate
16 Attorney General from primarily the civil litigating
17 divisions.

18 Q Did you have any direct responsibility for
19 criminal investigations in that job?

20 A No.

21 Q Did Mr. Hubble?

22 A Not to my knowledge, no.

1 Q I neglected to ask, whether in your
2 position in Justice, whether anyone reported to you.

3 A Not in a technical sense, no.

4 Q Did people report through you to the
5 Associate Attorney General? Is that a fair
6 characterization?

7 A Yes, I think that would be a fair
8 characterization.

9 Q Even if it's not possible to put names on
10 it, perhaps you could sort of describe, by job
11 description or job title, who reports through you to
12 the Associate Attorney General?

13 A In general, the Associate Attorney
14 General's staff, the other deputies and other staff
15 people that serve on the Associate's staff generally
16 report through me, and then, depending upon the
17 matter at time, Deputy Assistant Attorneys General,
18 sometimes Assistant Attorneys General from the civil
19 litigating divisions report to me, rather than the
20 Associate.

21 Q In the early part of 1992, who was the
22 head of the Civil Division.

14

1 MR. COLE: Cliff, do you mean 1992 or
2 1993?

3 MR. JOHNSON: I meant 1992 when you came
4 on board.

5 MR. STEWART: She did not come on board.

6 BY MR. JOHNSON:

7 Q When did you begin at the Justice
8 Department?

9 A In early 1993.

10 MR. COLE: Presumably after the
11 Presidential Inauguration.

12 THE WITNESS: I think you indicated that
13 at some point.

14 MR. JOHNSON: I just got the year wrong.
15 Thank you. Maybe if we'd just elect them and
16 inaugurate them in the same year, it would be less
17 confusing.

18 BY MR. JOHNSON:

19 Q Having rightly corrected me on those
20 dates, do we now need to change any of the answers
21 that you've given before, other than to amend the
22 date to the extent that I was wrong?

- 1 A No.
- 2 Q When you came on board in early 1993, who
- 3 was the head of the Civil Division?
- 4 A I actually don't remember.
- 5 Q At some point in time, did Mr. Hubble
- 6 become the head of the Civil Division?
- 7 A Yes.
- 8 Q You just don't remember whether that was
- 9 before or after you came on board?
- 10 A It was definitely after I came on board.
- 11 I cannot recall who was the Acting Assistant Attorney
- 12 General. I can't remember if Stewart Gerson, who was
- 13 the Acting Attorney General, continued to head the
- 14 Civil Division, as well, or whether Stuart Schiffer,
- 15 who was a Deputy Assistant Attorney General in the
- 16 Civil Division, was named acting head of that
- 17 division. I can't remember.
- 18 Q Perhaps I should try and place more
- 19 specifically in time when you began working for the
- 20 Justice Department in early 1993 after the
- 21 inauguration.
- 22 Does a date come to mind?

- 1 A I don't know the exact date. It was some
- 2 time in either late February or early March of 1993.
- 3 Q Let me turn now to near the time of Mr.
- 4 Foster's death, which was on Tuesday, July 20th,
- 5 1993.
- 6 Did you know Mr. Foster personally?
- 7 A Yes.
- 8 Q How had you known Mr. Foster?
- 9 A I knew Mr. Foster primarily through his
- 10 work in the White House Counsel's office and my work
- 11 at the Justice Department. As with Mr. Hubble, at
- 12 some point prior to the election, I had met Mr.
- 13 Foster. I don't recall when or where.
- 14 Q Is it fair to say you knew him vaguely
- 15 prior to the election, and in a professional capacity
- 16 after the election?
- 17 A Yes.
- 18 Q What job responsibilities, if any, did you
- 19 have that caused you to interface with Mr. Foster in
- 20 the White House?
- 21 A Are you speaking about specific matters or
- 22 just generally?

1 Q Just generally.

2 A The White House Counsel's office is the
3 principal point of contact for the Justice Department
4 on virtually all matters, so there was a fair amount
5 of communication between the Counsel's office and the
6 Justice Department.

7 Mr. Foster, being the Deputy White House
8 Counsel, was the key person for us to be in contact
9 with.

10 Q When you say "us," who do you mean? The
11 Justice Department?

12 A The Justice Department.

13 Q Did you play any particular role or have
14 any particular responsibility for communication or
15 coordination with the White House?

16 A The Justice Department tends to want at
17 least initial communications between the Justice
18 Department and the White House to flow through one of
19 the three leadership offices, the Associate's office,
20 the Deputy's office, or the Attorney General's
21 office.

22 Being in the Associate's office, I did

1 serve as sort of one of the lines of communication
2 between the Counsel's office and the Justice
3 Department.

4 Q During the time when you and Mr. Hubble
5 worked at the Justice Department together, was Mr.
6 Hubble the primary Justice Department contact with
7 the White House, if you know?

8 A I think it would be fair to characterize
9 that as so, yes.

10 Q Was the primary point of contact in the
11 White House for Mr. Hubble or yourself, Mr. Foster?

12 A No, I don't believe that that would be so.
13 I think the White House Counsel, Mr. Nussbaum, at
14 that time was certainly a key point of contact as
15 well.

16 Q In the course of your job duties, did you
17 ever interact personally with Mr. Nussbaum?

18 A Yes.

19 Q Speaking on the telephone, have meetings,
20 that sort of thing?

21 A Somewhat, yes.

22 Q Other than Mr. Nussbaum and Mr. Foster,

1 did you have occasion to interact professionally with
2 anyone else in the White House Counsel's office?

3 A Yes.

4 Q What other names come to mind?

5 A Cheryl Mills, Steve Neuwirth, Bill
6 Kennedy. We're talking in terms of time frame, the
7 full time that I've been at the Justice Department?

8 Q Thanks for clarifying that.

9 I'm actually much more interested in the
10 July 1993 time frame.

11 A I believe Cliff Sloan was at the White
12 House Counsel's office at that time. I worked with
13 Cliff on some matters.

14 Beth Nolan.

15 At the moment, I can't remember other
16 names in the Counsel's office.

17 Q Did you have routine contact with the
18 White House, other than through the White House
19 Counsel's office?

20 A Yes.

21 Q What other offices in the White House did
22 you routinely talk to?

20

1 A I served in a quasi-chief of staff role so
2 I had participated in regular conference calls that
3 the White House would convene with chiefs of staff
4 from departments throughout the Federal Government.
5 And so that was my other routine contact with the
6 White House.

7 Q Who at the White House did you have
8 contact with in that role?

9 A The Cabinet Affairs Office primarily.

10 Q In roughly July of 1993, did you know the
11 President personally?

12 A It's sort of a difficult question to
13 answer.

14 MR. STEWART: What do you mean by
15 personally? At a level of a first name basis, or did
16 she attend meetings that he attended?

17 BY MR. JOHNSON:

18 Q You worked on the campaign so I guess I'm
19 willing to assume that you had met him.

20 Did you have a first name relationship
21 with him. When he say you, would he say, hi, Nancy?

22 A Yes. I think he would associate a name

1 and a face.

2 Q What about with the First Lady?

3 A Yes.

4 Q Did you have a closer, more friendly
5 relationship with the First Lady than you've just
6 described with the President?

7 A Not necessarily. I don't pretend to have
8 a personal relationship with either the President or
9 the First Lady, but I think I probably -- it's easier
10 to have access to the First Lady than it is to the
11 President, which is I think the reason I answered
12 quickly with respect to Mrs. Clinton.

13 Q You have at least more frequent
14 communication or interface with the First Lady?

15 A Yes, to the extent that it was incredibly
16 infrequent, it was more frequent.

17 Q Did you ever have an occasion, while
18 employed at the Justice Department, to interact with
19 the First Lady or the First Lady's office in your
20 job duties?

21 (Pause.)

22 A I'm trying to recall. I worked with the

22

1 First Lady's staff on some issues, violence against
2 women, those kinds of issues.

3 Q Who are on the First Lady's staff do you
4 recall did you work with?

5 A Maggie Williams and Melanne Verveer.

6 Q How well do you know Ms. Williams?

7 A Only in a professional sense.

8 Q Ms. McFadden, coming back now to July 20,
9 1993, how did you learn, on that day, if you did,
10 that Mr. Foster's body had been found?

11 A I did not learn until the early hours of
12 the following day.

13 Q When you say early hours, do you mean the
14 middle of the night, or the early business hours of
15 the morning?

16 A Not middle of the night. Some time prior
17 to sort of opening business hours, 5:30, 6:00 a.m.,
18 something early in the morning.

19 Q On the morning of the 21st?

20 A On the morning of the 21st, yes.

21 Q How did you learn about Mr. Foster's
22 death?

1 A I can't remember in terms of sequence but
2 I received a couple of telephone calls at home and I
3 don't know whether I saw the paper before I received
4 telephone calls, or received telephone calls and then
5 saw the paper.

6 Q Who called you?

7 A A friend of mine called me and Mr. Hubble
8 called me.

9 Q What do you recall about you telephone
0 conversation with Mr. Hubble?

1 A I don't recall much. It was a brief
2 conversation. He wanted to make sure that I knew
3 what had happened and wanted to make sure that I knew
4 that he was not going to be in the office, but that
5 if I needed to get a hold of him for any reason, that
6 I should do so.

7 Q Did Mr. Hubble tell you where he was going
8 to be?

9 A I don't recall.

0 Q I take it he left some way for you to get
1 a hold of him? You just don't remember today how or
2 where that was?

1 A He had a pager with him, as I recall, and
2 I don't remember where he was at the time he called
3 me.

4 Q Just because I think my question was bad,
5 let me break it down.

6 Do you know today where he was on the 21st
7 of July, 1993?

8 A No.

9 Q You just know that he wasn't in his
0 office?

1 A Right.

2 Q Do you know whether or not Mr. Hubble told
3 you at that time that Mr. Foster had committed
4 suicide?

5 A I don't recall the specific conversation
6 we had, but I do believe that Mr. Hubble said
7 something to the effect of, did you know, or do you
8 know that Vince killed himself. So, yes, I think he
9 referred in some way to suicide.

0 Q I take it Mr. Hubble was very upset at the
1 time you spoke with him?

2 A Yes.

1 Q Was it noticeable to you in his voice or
2 his tone that he was distraught?

3 A Certainly I knew that he was upset but I
4 did not notice that he was overly emotional or
5 distraught.

6 Q Then you described this as being early in
7 the morning, 5:30, 6:00 a.m., something like that, is
8 that correct?

9 A Roughly. I know it was in the wee hours,
10 the early hours of the morning. I'm not sure
11 precisely what time.

12 Q What's the next thing that you recall on
13 the 21st of July, 1993 relating to Mr. Foster's
14 death, if anything?

15 A Actually, I'm sorry, can you repeat your
16 question?

17 Q Be more specific?

18 A Yes, I'm not clear.

19 Q Let's focus on before you went to work.
20 You said it's possible you read the newspaper or
21 received a telephone call from your friend, and the
22 telephone call from Mr. Hubble.

1 Am I right so far?

2 A That's correct.

3 Q Anything else that you recall relating to
4 Mr. Foster's death before you went to work on the
5 morning of the 21st?

6 A No.

7 Q The friend who called you, was that a
8 Government employee or someone associated with the
9 Clinton Administration?

10 A Yes, it was.

11 Q Who was that?

12 A John Hart.

13 Q What was his role in the Clinton
14 Administration?

15 A He served in the Intergovernmental Affairs
16 Office of the White House.

17 Q Was Mr. Hart's call to you as a personal
18 friend or did it also have some official function?

19 A Solely as a personal friend.

20 Q Okay.

21 What if anything do you recall happening
22 in connection with Mr. Foster's death after you got

1 to work on the 21st?

2 A Beyond sort of general musing about how
3 tragic it was, I actually don't have a recollection
4 of anything specifically related to his death.

5 Q What time, by the way, did you get to
6 work? Do you have any recollection?

7 A I don't have a recollection of when I got
8 to work that morning.

9 Q What time do you normally arrive at work?

10 A I normally arrive around some time between
11 quarter of 8:00 and 8:30.

12 Q Did you have any reason to think today
13 that you arrived other than at your normal time that
14 day?

15 A No.

16 Q Do you recall whether or not you spoke
17 with anyone from the White House on the morning of
18 the 21st?

19 A I don't recall.

20 Q Let me just ask a couple of names so that
21 at least the record will be clear that you don't
22 recall having conversations with them.

1 I take it you don't recall having any
2 conversations with Mr. Nussbaum that morning?

3 A No.

4 Q Did you speak with Mr. Stephanopoulos?

5 A I don't recall having any conversation
6 with him.

7 Q Do you recall speaking with anyone from
8 the White House Counsel's office at any time on the
9 21st?

10 A No, I don't have any recollection.

11 Q Did you speak with Mr. Hubble again on
12 that day?

13 A I don't remember.

14 Q Did there come a time on the 21st of July,
15 1993, when you learned that FBI agents had been sent
16 to the White House to assist Park Police in their
17 investigation?

18 MR. STEWART: On the 21st?

19 THE WITNESS: I don't have a recollection
20 of learning that.

21 BY MR. JOHNSON:

22 Q I've asked that same kind of bad question

1 again.

2 You're saying you didn't learn that on the
3 21st.

4 Did you ever learn, as you sit here today,
5 that FBI agents went to the White House on the 21st?

6 A As I sit here today, I do know that the
7 FBI assisted the Park Police. I actually, I'm not
8 sure that I could say that I know that it was on the
9 21st.

10 Q Do you know whether or not --
11 Strike that.

12 Did you learn, at any time, on the 21st,
13 that representatives of the Department of Justice
14 went to the White House to facilitate the
15 investigation?

16 A I can't recall if I learned that on the
17 21st or if it was later.

18 Q Understanding that you don't recall
19 exactly when you learned it --

20 MR. STEWART: Could I have a second here,
21 counsel, just for a moment?

22 MR. JOHNSON: Sure.

30

1 (Discussion off the record.)

2 BY MR. JOHNSON:

3 Q Do you want to correct something?

4 A No.

5 Q Whether or not you learned on the 21st
6 that representatives of the Department of Justice
7 that went to the White House, did you learn that at
8 some point in time on that day, then representatives
9 of the Department of Justice did go to the White
10 House?

11 A Yes. I'm just blurry as to whether some
12 things happened on the 21st or the 22nd, but yes, I
13 did know that two Justice Department representatives
14 went over to the White House Counsel's office.

15 Q Now, on the 22nd of July, there was a
16 review of the contents of Mr. Foster's office in
17 which Department of Justice representatives were
18 present?

19 A That's what I --

20 Q That's what you remember?

21 A That's what I remember.

22 Q Having established that, did you ever

1 learn that on the 21st of July, Department of Justice
2 representatives went to the White House?

3 A No, not that I recall.

4 Q And as you sit here today, you still don't
5 have any knowledge about that?

6 A I don't know.

7 Q Tell me what --

8 Strike that.

9 Do you think you learned on the 22nd that
10 Justice Department representatives were going to be
11 at the White House on the 22nd to facilitate the
12 investigation?

13 MR. STEWART: Does your question mean, did
14 she learn beforehand? Is that what you're driving
15 at?

16 MR. JOHNSON: No, on that day. Thank you.

17 BY MR. JOHNSON:

18 Q On that day, did you learn that?

19 A Yes.

20 Q Mr. Stewart makes a good point. Did you
21 learn before they went over, or did you learn
22 sometime after?

1 A I learned before they went over.

2 Q Why don't you tell me what you recall
3 about how you learned that?

4 A I was present in Mr. Hyman's office I
5 believe shortly before Mr. Margolis and Mr. Adams
6 went over to the White House Counsel's office, in
7 which there was a discussion about the fact that they
8 were going to go over there.

9 Q Were you there for the purposes of that
10 discussion, or did you just happen to be there when
11 that discussion occurred?

12 A I don't remember whether I was called to
13 go down to Mr. Hyman's office, whether I happened to
14 be there. I don't have a memory of how I was there.

15 Q On the 22nd of July, 1993, was Mr. Hubble
16 at work in the Justice Department?

17 A No.

18 Q Do you have any recollection today of
19 where Mr. Hubble was on that day?

20 A No. Again, I am fuzzy in terms of the
21 days and times. At one point, either on the 22nd or
22 the 23rd, Mr. Hubble literally went with Mr. Foster's

1 body to Arkansas. I believe it was on the 22nd, but
2 I can't recall.

3 Q Mr. Foster's funeral was in, I believe in
4 Little Rock, on Friday the 23rd. Does that help?

5 A Yes. Then it would have been the 22nd.

6 Q I interrupted you.

7 You were telling me that you were present
8 at Mr. Hyman's office with Mr. Margolis and Mr.
9 Adams, when the topic of their going to the Justice
10 Department (sic) came up, is that correct?

11 A Yes.

12 Q Can you tell me what you recall about that
13 conversation?

14 A That's pretty much it. I remember just
15 the discussion about the fact that they would be
16 going over to the White House Counsel's office as the
17 contents of Mr. Foster's office would be reviewed.

18 Beyond that, I really don't recall. Other
19 than that fact, I don't recall anything else really
20 about the conversation.

21 Q Did you have any understanding in that
22 meeting about how the contents of Mr. Foster's office

1 would be reviewed?

2 A I don't remember if that was discussed.

3 Q What understanding, if any, did you have
4 about the purpose of having Department of Justice
5 representatives present when the contents were
6 reviewed?

7 (Pause.)

8 A At the time, again, I'm not clear. I
9 don't recall much about the conversation in Mr.
10 Hyman's office. Generally, my understanding, this is
11 probably filtered by subsequent events, is that the
12 Justice Department, as an independent law enforcer,
13 should have a role there. But I don't recall there
14 being a specific conversation about the Justice
15 Department's role.

16 Q When you say independent, do you mean
17 independent of the White House, or independent in
18 some other sense?

19 A Independent sort of in every sense.

20 Q Including from the White House?

21 A Yes.

22 Q I take it you don't remember anything more

1 specific about that meeting in Mr. Hyman's office
2 with Mr. Margolis and Mr. Adams?

3 A No.

4 Q Was there any discussion in that meeting
5 about whether or not Mr. Hubble or Mr. Hubble's
6 office should be involved or not involved in any way
7 in the Department of Justice's role in the
8 investigation?

9 A I don't remember. I've told you what I
10 remember from that meeting.

11 Q Was there ever any discussion that you're
12 aware of, involving Mr. Hyman or anyone else, on the
13 topic of whether Mr. Hubble should recuse himself or
14 distance himself from the Department of Justice's
15 role?

16 A I do not remember specific conversations
17 either with Mr. Hubble or with other people in the
18 Justice Department, including Mr. Hyman, but I do
19 recall that it was Mr. Hubble's posture that he
20 should be distanced from this, and Mr. Hyman was the
21 lead person without Mr. Hubble working with him on
22 the matters relating to Mr. Foster.

1 Q I think I understand that, but let me see
2 if I've got it right.

3 You understand that Mr. Hubble himself
4 wanted to be distanced from the investigation, is
5 that right so far?

6 A Yes.

7 I cannot place this understanding to a
8 specific conversation either with Mr. Hubble or with
9 Mr. Hyman or other people at the Justice Department.
10 But I do know that it was Mr. Hubble's understanding
11 and I believe it was just the general Justice
12 Department understanding that Mr. Hubble would not
13 have a role in matters dealing with Mr. Foster's
14 death.

15 Q Why not?

16 A Primarily because of his close personal
17 association with Mr. Foster in addition to the fact
18 that naturally these matters fell under Mr. Hyman, so
19 it would not be the usual course for Mr. Hubble to
20 have a role, in any case.

21 Q Was there ever any discussion that Mr.
22 Hubble should distance himself from the investigation

1 so as to not create the impression of White House
2 influence over the investigation?

3 A I don't recall any specific conversations.

4 Q Do you recall any general conversations?

5 A I'm just recalling what I believe to be
6 the general understanding, but I can't link it to any
7 specific conversations that I or anybody else had.

8 Q I've confused myself. It's not your
9 fault. What I think you did say is that you said
10 that Mr. Hubble should be distanced for two reasons.
11 One, because it would not ordinarily fall within his
12 jurisdiction, and the other because of his close
13 personal association with Mr. Foster.

14 Have I got that right?

15 A Generally, yes.

16 Q My question is, was there another reason
17 specifically that if Mr. Foster were involved in the
18 Department of Justice role in this investigation --

19 A Mr. Hubble.

20 Q I'm sorry.

21 If Mr. Hubble were involved in the
22 Department of Justice's investigation of Mr. Foster's

1 death, it might create the impression of White House
2 influence within the Department of Justice?

3 A As I said, I don't recall specific
4 conversations so I don't recall specific rationales
5 or reasons laid out. I think that that, in a very
6 general sense, would be another reason Mr. Hubble
7 probably felt it best not to be personally involved.

8 Q Even though you don't recall specific
9 conversations, do you recall generally discussing
10 this topic with Mr. Hubble directly?

11 A I don't have a recollection of it.

12 Q So, as you sit here today, it's not clear
13 to you where you got the impression that Mr. Hubble
14 wanted to be distanced from the investigation?

15 A That's correct.

16 Q In the meeting in Mr. Hyman's office,
17 which you attended on the 22nd of July, did you at
18 that time have the impression that Mr. Hubble wanted
19 to be distanced from the investigation?

20 MR. STEWART: From whom?

21 MR. JOHNSON: I don't understand.

22 MR. STEWART: Did she have the impression

1 that Mr. Hubble wanted to be distanced from the
2 investigation on the 22nd?

3 You've established that she had the
4 telephone conversation with him earlier on the 21st,
5 and she said this meeting on the 22nd. From whom did
6 she have this impression?

7 MR. JOHNSON: She's already testified that
8 she doesn't know from whom she's had the impression.
9 I'm trying to focus on when she first gained the
10 impression, or whether she had it at that meeting on
11 the 22nd.

12 THE WITNESS: I'm sorry, could you repeat
13 your question?

14 BY MR. JOHNSON:

15 Q We've established, I think, that you at
16 some point came to the impression that Mr. Hubble
17 wanted to be distanced from the investigation, and
18 that you don't today recall precisely how you gained
19 that impression.

20 Is that right so far?

21 A Yes.

22 Q Understanding all of that, did you have

1 this impression when you attended the meeting on the
2 22nd that Mr. Hubble wanted to be distanced from the
3 investigation?

4 A I don't remember.

5 Q Why were you at that meeting on the 22nd?

6 A As I stated earlier, I don't remember why
7 I was there. I don't remember whether I was in the
8 Deputy's office and the meeting or a discussion
9 ensued, or whether I was called down there. I don't
10 remember.

11 Q Is it clear to you that Mr. Hubble didn't
12 send you to that meeting?

13 A Yes.

14 Q So among the various possibilities, you're
15 certain at least that's not one of them?

16 A To the extent I can be certain about a day
17 I don't remember very well, but yes.

18 Q I think I asked you, and I apologize if I
19 did, whether or not you gained in the meeting on the
20 22nd in Mr. Hyman's office, any understanding or
21 impression about how the review of the contents of
22 Mr. Foster's office would be conducted?

1 A I don't remember.

2 Q What else do you remember occurring on the
3 22nd, if anything, relating to the investigation of
4 Mr. Foster's death?

5 A I don't have any specific recollection of
6 that day, anything arising on that day.

7 Q Did you ever learn on that day, being July
8 22nd, 1993, that the review of the contents of Mr.
9 Foster's office had been conducted?

10 A I don't remember when I learned that the
11 review had taken place.

12 Q At some point, you did learn, you just
13 can't be certain it was on the 22nd?

14 A That's correct.

15 Q Whenever you may have learned it, did you
16 learn anything at all about the circumstances under
17 which the review of the contents did take place?

18 (Pause.)

19 A Again, I can't, sitting here today, it's
20 hard for me to distinguish between what I know now,
21 based upon press reports and other things, and what I
22 learned at what point, so I believe that, at some

1 point, I learned that Mr. Nussbaum had conducted
2 basically the review of documents in Mr. Foster's
3 office.

4 Q I think you've been clear that you don't
5 have any idea today how you learned that. Maybe it
6 was even in the newspaper?

7 A That's correct.

8 Q Did you ever learn, from any source, that
9 Department of Justice representatives had objected to
10 that method of conducting the review?

11 A Again, I don't recall if it was at that
12 time, or whether it's subsequently, but I believe I
13 became aware that there had been some concern voiced
14 at some point.

15 Q And you're not able to pinpoint more
16 specifically today how you became aware of that?

17 A No, I don't recall.

18 Q Let me just ask you a couple of questions
19 to try and narrow this down for the record.

20 Did you ever discuss the review of the
21 contents of Mr. Foster's office with Mr. Hyman, other
22 than the meeting you've described before the review?

- 1 A Not that I recall, no.
2 Q Did you ever discuss it with Mr. Margolis?
3 A Again, not that I recall, no.
4 Q Mr. Adams?
5 A No.
6 Q Any representatives from the Federal
7 Bureau of Investigation?
8 A No.
9 Q Any representatives from the White House?
10 A Not that I recall.
11 Q You never discussed it with Mr. Nussbaum?
12 A Not that I remember, no.
13 Q Forgive me for the tediousness.
14 You said you also had occasional contact
15 with Mr. Sloan and Mr. Neuwirth in the White House
16 Counsel's office, both of whom were present for the
17 review.
18 Did you ever discuss it with either of
19 them?
20 A No, not that I remember.
21 Q Let me ask you, before I suggest a break,
22 whether you recall anything else about the 22nd?
-

- 1 A No, I really don't have any kind of
2 specific recollection of that day.
3 MR. JOHNSON: Counsel, can we take a five-
4 minute break now, just off the record?
5 (Discussion off the record.)
6 (Recess.)
7 BY MR. JOHNSON:
8 Q Before we broke, I was asking you, in an
9 effort to perhaps refresh your recollection, whether
10 or not you'd ever discussed the Justice Department's
11 objections or disagreement with the method of the
12 review of the contents of Mr. Foster's office.
13 I neglected to ask you whether or not you
14 ever discussed that with Mr. Hubble.
15 A Not that I remember, no.
16 Q After the 22nd of July in 1993, what
17 involvement, if any, did you have, Ms. McFadden, in
18 the investigation into the death of Mr. Foster,
19 broadly defined?
20 A I had no involvement with the
21 investigation.
22 Q You didn't attend any further --

1 Strike that.

2 Roughly, on the 26th of July, 1993, a torn
3 up handwritten piece of paper was found by members of
4 the White House Counsel's office in Mr. Foster's
5 briefcase.

6 When do you think you became aware of
7 that?

8 A I can't recall if I learned it from press
9 accounts or through being told by somebody.

10 Q Are you the one who told Mr. Hubble or did
11 someone else tell Mr. Hubble of that fact?

12 A I'm sorry. About the note?

13 Q About the note being found?

14 A I don't remember. I don't have any
15 recollection of telling Mr. Hubble that. And I do
16 not know how he found out about the note.

17 Q Now the circumstances under which the note
18 was found precipitated further FBI involvement in the
19 broadly defined Foster investigation.

20 Did you recall that?

21 A Again, I don't recall at what point I
22 learned, or if I learned, until it was reported in

1 the press, that the FBI was involved.

2 Q However you learned and whenever you
3 learned, what if any involvement did you have at the
4 Justice Department in the continuing investigation of
5 Mr. Foster's death?

6 A None.

7 Q Did you ever attend a meeting at the
8 Justice Department some time after the note was
9 discovered to discuss generally the topic of what the
10 FBI had been referring to as an obstruction of
11 justice investigation?

12 A I don't recall attending any such meeting.

13 Q You have no recollection?

14 A No.

15 Q Just to be clear, are you saying you just
16 don't recall one way or the other, or you don't think
17 you did attend?

18 MR. STEWART: I'm not sure what that
19 distinction really is.

20 MR. JOHNSON: One says it's entirely
21 possible that you did attend and that would be
22 perfectly consistent with your absence of

1 recollection, and the other says, no, it would
2 surprise me if I attended; I don't think I attended
3 any such meeting.

4 MR. STEWART: Either way, there's no
5 recollection.

6 THE WITNESS: I don't recall attending any
7 such meeting. I, as Mr. Hubble, did not involve
8 myself in the investigation and so I don't have any
9 recollection of attending any such meeting. I'll
10 leave it at that.

11 BY MR. JOHNSON:

12 Q I'm not trying to be the least bit
13 deceptive here. There are others who recall that
14 maybe you were present at such a meeting. So let me
15 just see if I can refresh your recollection about it.
16 I'm sorry I don't know the date. I was hoping you
17 would remember.

18 There may have been a meeting in Mr.
19 Hyman's or Mr. Margolis' office, attended by Cynthia
20 Monaco, Mr. Margolis, Mr. Hyman, perhaps others, and
21 in the recollection of some, yourself, where the
22 question of why the FBI was calling it obstruction of

1 justice investigation was raised.

2 Do you have any recollection of any
3 meeting like that?

4 A I don't have any recollection of that.

5 MR. COLE: Can I whisper something to you?
6 (Discussion off the record.)

7 BY MR. JOHNSON:

8 Q Again, counsel, just in an effort to
9 refresh your recollection, if it exists, I didn't
10 mean to over-characterize the meeting.

11 It's possible that there was a meeting on
12 some other topic taking place, and that you or
13 someone else, in the context of that other meeting,
14 raised the topic of the FBI's obstruction of justice
15 investigation.

16 Does that change your memory or change
17 your recollection at all?

18 A It doesn't change my recollection. I
19 don't recall having a conversation.

20 That's a more plausible scenario because I
21 did not attend meetings that were about the
22 investigation and was not involved in that.

1 But, again, I don't have a recollection of
2 that conversation.

3 Q How common was it for you to be in
4 meetings with any or all of Mr. Hyman, Mr. Margolis,
5 Ms. Monaco. Those are the names that come to mind
6 now.

7 A I was not in a lot of meetings with the
8 Deputy staff in general. I attended, on a routine
9 basis, meetings that the Attorney General had with
10 her senior leadership, so I was, on a regular basis,
11 in meetings with Mr. Hyman, Mr. Hubble, the Attorney
12 General and others. But I didn't regularly go to
13 meetings that were on criminal matters that would
14 involve Mr. Margolis and Ms. Monaco.

15 (Pause.)

16 Q Let me, in an effort to refresh your
17 recollection, read you a couple of questions and
18 answers from a deposition taken earlier in this
19 investigation.

20 I'll ask counsel to maintain the
21 confidentiality of this. In fairness, I'll tell you
22 that it's the deposition of Cynthia Monaco.

50

1 I'm sorry I can't share this with you
2 guys. For your benefit, I'm on page 47 here. It's
3 describing a meeting that took place several days, in
4 her recollection, after the discovery of the note,
5 her testimony:

6 And what was the discussion that evening,
7 it would have been late in the evening?

8 Nancy McFadden came in to David Margolis'
9 office, at which there was a meeting in progress, and
10 the Deputy Attorney General was there, I was there
11 and Rob Rosenstein was there, and there may have been
12 one other person present. I don't recall. And Nancy
13 McFadden entered the office, closed the door behind
14 her, and explained that the FBI agents had been
15 telling the White House personnel that they were
16 investigating possible obstruction of justice by
17 White House officials in the handling of the note.
18 She also explained that this had been the subject of
19 a news report on the evening news.

20 Next question. Do you remember when this
21 was relative to the time the Department of Justice
22 had first learned that the note had been discovered?

1 Answer. As I recall, this would have been
2 several days later and this would have been after the
3 Deputy Attorney General asked the FBI to take over
4 that aspect of the investigation.

5 Question. What was the, did Ms. McFadden
6 indicate why she was coming in and reporting this to
7 the Deputy?

8 Answer. She stated that Webb Hubble had
9 asked her to look into it and see what was going on.
10 I can't recall her exact words.

11 Does that refresh your recollection about
12 whether or not anything like this took place?

13 A No.

14 Q Did Mr. Hubble ever actually ask you to
15 investigate, in a general way, why the FBI was
16 conducting an obstruction of justice investigation?

17 MR. STEWART: Investigation is a strong
18 word there.

19 MR. JOHNSON: Inquire about?

20 MR. STEWART: Thank you.

21 THE WITNESS: Not that I recall, no.

22 (Pause.)

1 BY MR. JOHNSON:

2 Q Do you routinely keep a diary or notes or
3 minutes of meetings that you attend, or a daily log
4 or anything of that kind that might refresh your
5 recollection of whether or not such a meeting took
6 place?

7 A No.

8 Q Does your secretary keep a calendar for
9 you or anything like that?

10 A Yes.

11 Q Is there any reason to think that an event
12 of this kind would be recorded in any way on that
13 calendar?

14 A The calendar that my secretary keeps for
15 me are scheduled in advance meetings.

16 Q So if this had not been such a meeting, it
17 wouldn't be there, but if it had, it might be?

18 A That's correct.

19 Q Do you have access to that calendar today,
20 today physically I mean? Do you still have it?

21 A I don't. My secretary probably does.

22 Q Who is Mr. Rosenstein, by the way?

1 A He did serve on the Deputy Attorney
2 General's staff. I'm not sure, I believe he's no
3 longer there. I believe he actually even may be
4 working for the Independent Counsel.

5 MR. JOHNSON: I'm going to go off the
6 record for one second.

7 (Discussion off the record.)

8 MR. JOHNSON: In an off-the-record
9 conversation, counsel has been kind enough to
10 undertake to determine whether or not the diary or
11 calendar that your secretary maintains, Ms. McFadden,
12 exists and whether or not, in the ten-day or so
13 window surrounding Mr. Foster's death, there's any
14 indication on that calendar of any meeting that might
15 help refresh your recollection of whether it took
16 place.

17 I'll leave it to your counsel to simply
18 inform us telephonically or otherwise.

19 MR. STEWART: I will call you.

20 BY MR. JOHNSON:

21 Q Are there any other -- strike other --
22 since you don't recall that one, do you recall any

54

1 meetings in the Justice Department relating to the
2 topic of Mr. Foster's death or the investigation into
3 that death by the FBI?

4 A No, I don't.

5 MR. STEWART: Other than the one that was
6 discussed.

7 BY MR. JOHNSON:

8 Q Other than the July 22nd meeting that we
9 discussed. That's actually a helpful reference
10 point.

11 As we sit here today, is that the only
12 meeting you ever recall being at?

13 A That's the only meeting I recall, yes.

14 (Pause.)

15 Q Do you recall perhaps some time in early
16 August of 1993 participating in any discussions on
17 the topic of the publicity surrounding the
18 investigation into Mr. Foster's death?

19 A No, I don't recall.

20 Q Let me just try it again, to see if
21 there's memory that can be refreshed.

22 Did you ever, for example, state to anyone

1 that you were going to ask Mr. Hubble to speak to Mr.
2 Hyman about talking to the press people and perhaps
3 generating less publicity on the topic of the Foster
4 death or Foster investigation?

5 MR. STEWART: Which investigation?

6 MR. JOHNSON: The Justice Department
7 investigation.

8 THE WITNESS: I don't have any
9 recollection of saying something to that effect.

10 (Pause.)

11 BY MR. JOHNSON:

12 Q After --

13 Strike that.

14 You testified earlier that you did, at
15 some point in time, form the impression that Mr.
16 Foster wanted to distance himself from the Justice
17 Department role.

18 MR. STEWART: Not Mr. Foster.

19 MR. JOHNSON: I keep saying that.

20 BY MR. JOHNSON:

21 Q Mr. Hubble wanted to distance himself from
22 the Justice Department role in the investigation of

1 Mr. Foster's death.

2 I think you testified that you don't
3 recall exactly how you formed that impression.

4 Have I got that right so far?

5 A That's correct.

6 Q Did there ever come a time when you formed
7 a different impression, either that Mr. Hubble had
8 changed his mind, or that he no longer wished to
9 distance himself from the Department of Justice role
10 in the Foster investigation?

11 A No.

12 Q To the best of your knowledge, did Mr.
13 Hubble play any role at the Justice Department in its
14 investigation of Mr. Foster's death?

15 A None that I know of.

16 Q As we sit here today, and let me just
17 state that preliminarily, the question is calling on
18 information from any source, excluding things that
19 you may have learned only in your conversations with
20 counsel or things that you may have learned only in
21 any conversations that you may have had with
22 representatives of the Independent Counsel's office.

1 Is that clear so far?

2 From any source except those two, do you
3 know anything at all about the handling of the
4 documents in Mr. Foster's office, other than what
5 we've described?

6 MR. STEWART: You mean after his death?

7 MR. JOHNSON: After his death, yes.

8 THE WITNESS: No.

9 BY MR. JOHNSON:

10 Q Just to put several periods at the end of
11 that sentence, I take it you've never spoken with Mr.
12 Nussbaum, as we sit here today, on this topic?

13 A No.

14 Q Have you ever spoken with Maggie Williams
15 on this topic?

16 A No.

17 Q Have you ever raised it with the First
18 Lady?

19 A No.

20 Q Have you ever raised it with any
21 representative of the White House Counsel's office,
22 including Mr. Neuwirth or Mr. Sloan?

1 A No.

2 Q You just don't have any information to
3 provide on that topic about whether or under what
4 circumstances any documents may have been removed or
5 any other topic relating to that?

6 A No, I don't.

7 Q Let me ask, I hope, a similarly broad
8 question with respect to the Department of Justice
9 role in the investigation.

10 We've described your presence at a meeting
11 some time on July 22nd. Have I missed anything about
12 your participation in the Department of Justice?

13 Have you played any other role that you
14 can recall here today in the investigation into Mr.
15 Foster's death?

16 A No.

17 MR. JOHNSON: Thank you very much for your
18 cooperation and your helpfulness.

19 Mr. Cole may have some questions for you.
20 If he does, at the end of that, I'll say just a word.

21 MR. COLE: I have just a very few
22 questions. Would you prefer to take a break first?

1 THE WITNESS: No, I'm fine.

2 EXAMINATION

3 BY MR. COLE:

4 Q You testified, I think, that you received
5 a telephone call from Mr. Hubble on the morning of
6 July 21st, in which he told you that Mr. Foster had
7 killed himself or something to that effect.

8 Is that correct?

9 A I don't recall the specific conversation.
10 I'm not sure that he called me. He called me to make
11 sure, I think he already assumed that I probably
12 already knew, so he didn't really call me to tell me
13 that he'd killed himself; he just called me I think
14 to make sure that I knew, and then also to make sure
15 that I knew that he wasn't going to be in the office
16 that day.

17 Q And do you recall any other telephone
18 conversations with Mr. Hubble that day?

19 A I don't recall.

20 Q So, to the best of your recollection, he
21 didn't call you or give you any instructions or
22 directions?

60

1 A That's correct.

2 Q Is the same true on the following day?

3 A Yes.

4 First, I don't recall having any
5 conversations, and certainly I don't recall and don't
6 believe I had any conversations in which he called to
7 give me instructions.

8 At some point, we spoke about Mr. Foster's
9 funeral, but that was it.

10 Q But no discussions with Mr. Hubble about
11 Mr. Foster's office papers or anything related to
12 those subjects?

13 A None.

14 Q You testified that at some point you came
15 to understand that Mr. Hubble wished to distance
16 himself from the FBI or other investigations of Mr.
17 Foster's death.

18 Is that correct?

19 A Yes. He believed it to be appropriate and
20 best not to be a role.

21 Q Is that a decision that he came to on his
22 own, or did others direct him to that decision?

1 MR. STEWART: Within her knowledge.

2 THE WITNESS: I can't say for certain. I
3 don't know what other conversations Mr. Hubble had.
4 But to the best of my knowledge, this was something
5 certainly his own decision.

6 BY MR. COLE:

7 Q So to the best of your knowledge, it was
8 something that he agreed to and did not object to, so
9 far as you know?

10 A Something that he decided, yes.

11 (Pause.)

12 Q I apologize if Mr. Johnson asked you this
13 question earlier.

14 But you have no recollection of talking
15 with Mr. Hubble about anything related to Mr.
16 Foster's documents or the handling of his documents
17 after his death?

18 A None.

19 Q Do you have any recollections of any
20 discussions with Mr. Hubble in which he expressed any
21 concern about those matters?

22 A No, I don't recall any.

1 Q Do you have any reason, other than
2 discussions you might have had with him, which I've
3 already asked you about, to believe that he had any
4 concern about those matters?

5 A No.

6 Q You testified that you do not have a
7 recollection about a meeting or a gathering at which
8 you and others discussed an FBI investigation
9 involving obstruction of justice at the White House.

10 Is that correct?

11 A That's correct.

12 Q Apart from that meeting, do you have any
13 recollection of ever having a discussion with Mr.
14 Margolis on that subject?

15 A I don't have any recollection of having a
16 discussion on the subject with anybody.

17 Q This is probably covered by your prior
18 answer, but just to try to fill out the record here,
19 do you have any recollection of Mr. Margolis ever
20 telling you that he had spoken with someone at the
21 FBI about their investigation?

22 A No, I don't. I don't recall that.

1 MR. COLE: I don't have anything further.

2 MR. STEWART: I really don't have
3 anything.

4 MR. JOHNSON: Ms. McFadden, thank you.
5 (Discussion off the record.)

6 MR. JOHNSON: Thank you very much for your
7 time. The confidentiality of this proceeding is very
8 important to us, and we'd be grateful if you wouldn't
9 discuss your deposition with anybody.

10 (Discussion off the record.)

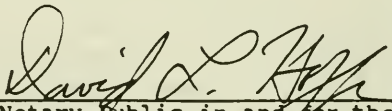
11 (Whereupon, at 3:10 p.m., Friday, July 7,
12 1995, the taking of the deposition ceased.)

13 -----
14
15 NANCY E. MCFADDEN
16
17
18
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

64

I, David L. Hoffman, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires 6/30/00

DEPONENT McFadden

ERRATA

[illegible]

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July 17, 1996

By Telecopy

Robert J. Giuffra, Jr.
Chief Counsel
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
Washington, DC 20510-6075

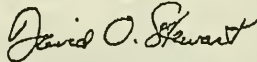
Re: Deposition transcripts of Nancy McFadden

Dear Mr. Giuffra:

I attach an errata sheet identifying errors of transcription in the deposition transcripts of the testimony of Nancy McFadden, a client of this firm, before the Special Committee to Investigate Whitewater Development Corporation and Related Matters, on July 7, 1995 and February 15, 1996.

Because these transcripts were mistakenly directed to Ms. McFadden at the Justice Department, they were not delivered to her at the Department of Transportation until last week. Accordingly, we were unable to provide these corrections until today. In a telephone conversation, your staff indicated that this should not be a problem.

Very truly yours,



David Overlock Stewart

Enclosure

cc: N. McFadden
DOS/bw: 7026983.01

**DEPOSITION OF CLIFFORD M. SLOAN
IN RE: S. RES. 120**

FRIDAY, JULY 7, 1995

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of CLIFFORD M. SLOAN, called for examination pursuant to notice of deposition, at 9:35 a.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

STEPHEN M. BYERS, Esq.
PETER J. ROMATOWSKI, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, NW
Washington, DC 20004-2595
On behalf of the Deponent.

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EXHIBITS

DEPOSITION NUMBER	IDENTIFIED
Clifford M. Sloan	
Sloan Exhibit 1	158, 2968
Sloan Exhibit 2	225, 2969

P R O C E E D I N G S

Whereupon,

CLIFFORD M. SLOAN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GIUFFRA:

Q Good morning, Mr. Sloan. My name is Robert Giuffra, chief counsel to the Senate Banking Committee. To my left is Neal Kravitz, who is the principal special counsel for the Democrats.

Please state your name for the record.

A Clifford M. Sloan.

Q I see you are represented by counsel.

Would counsel please state an appearance for the record.

MR. ROMATOWSKI: Peter Romatowski and Stephen Byers from Crowell & Moring.

BY MR. GIUFFRA:

Q Mr. Sloan, this is a deposition conducted pursuant to Senate Resolution 120. I have a copy of that, if you or your counsel would like to see it.

4

This resolution establishes a special committee administered by the Banking Committee to conduct an investigation and public hearings involving Whitewater Development Corporation and other related matters. Section I.B.1 of Senate Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death."

You understand that will be the focus of today's deposition?

A Yes.

Q When did you first learn that you would be asked to testify here today before the Senate?

A About a week or two ago I think is when it was scheduled.

Q Who advised you?

A My counsel.

Q This is a deposition in advance of public hearings which will be beginning as of July 18th.

That was announced yesterday, and they will probably

1 run for two weeks, maybe longer. It is our
2 understanding they will probably run Tuesday,
3 Wednesday and Thursday, although that has not been
4 announced. We will try to give you advance notice as
5 to when you would be asked to testify at those
6 hearings. I think it is probably likely you would be
7 asked to testify at those hearings. It will
8 obviously depend on what your testimony is today.

9 MR. ROMATOWSKI: We will have some
10 scheduling concerns, too. So I hope we get a chance
11 to talk about that.

12 MR. GIUFFRA: Yes, absolutely. You want to
13 go off the record?

14 MR. ROMATOWSKI: Yes.

15 (Discussion off the record.)

16 BY MR. GIUFFRA:

17 Q You understand that today we will be asking
18 you a series of questions. I will be asking you the
19 questions first and then Mr. Kravitz. You understand
20 you will be testifying under oath?

21 A Yes, I do.

22 Q If, at any time, during the course of the

1 deposition you don't understand a question or if a
2 question is misleading or confusing, please let me
3 know and I will rephrase the question. If, at any
4 time, you need a break, again, let me know and we
5 will take a break. The stenographer will prepare a
6 record of the questions and answers. This deposition
7 will be treated as something called committee
8 confidential, meaning that it will not be made public
9 until the commencement of the hearings, although the
10 transcript will, in all likelihood, be part of the
11 record that the Committee will prepare and release
12 after the hearings are concluded. You have a right
13 to be represented by counsel and you have chosen to
14 do so.

15 The procedures for depositions are
16 specified in the resolution, in section 5.B.7. They
17 provide that objections by a witness to the form of
18 questions will be noted for the record. If a witness
19 objects to a question or refuses to answer on the
20 basis of relevance or privilege, the staff may
21 proceed with the deposition or may at that time or at
22 a subsequent time seek a ruling on the objection from

1 the chairman of the Committee.

2 If the chairman overrules the objection,
3 the chairman may order and direct the witness to
4 answer the question, but the special committee will
5 not initiate procedures leading to civil or criminal
6 enforcement unless the witness refuses to answer
7 after having been ordered and directed to answer.

8 You will be given an opportunity to review
9 the transcript of the deposition to correct errors in
0 transcription and also we will be making the
1 deposition transcripts available in a secure room at
2 the Senate four days prior to the start of the
3 hearings, which will now be July 14th when we will
4 make them available. We will also make a copy of the
5 deposition available to your counsel four days prior
6 to your testimony. We would ask that you and your
7 counsel keep the deposition transcript in a secure
8 place and confidential.

9 Do you have any questions before we begin?

0 A No.

1 MR. ROMATOWSKI: Let me just mention since
2 one question has touched on communications with his

1 counsel -- albeit only to go into a scheduling
2 matter, which is harmless -- he will treat your
3 questions today as not calling on him to disclose any
4 communications between Mr. Sloan and his counsel,
5 just so that is understood. That is to say --

6 MR. GIUFFRA: Between the two of you?

7 MR. ROMATOWSKI: Yes.

8 MR. GIUFFRA: That's fine.

9 All set to begin?

0 MR. ROMATOWSKI: Fine.

1 BY MR. GIUFFRA:

2
3
4 Q And your present business address?

5 A My present business address? Wiley, Rein &
6 Fielding, 1776 K Street, Northwest, Washington, D.C.
7 20006.

8 Q Other than your counsel, prior to this
9 deposition, did you discuss the substance of what you
0 would be saying here today?

1 A Did I discuss it with anybody other than my
2 counsel? No.

1 Q Are you aware that the Committee has
2 requested that the White House provide certain
3 documents regarding the handling of papers in
4 Mr. Foster's office?

5 A I'm sorry. Could you say it again?

6 Q Are you aware that the Committee has
7 requested that the White House provide to the Senate
8 certain documents relating to the handling of papers
9 in Mr. Foster's office?

10 A Yes.

11 Q Have you searched for documents that you
12 might have prepared or had in your possession
13 responsive to this request?

14 A No.

15 Q Before leaving the White House, were
16 documents that you prepared provided to the White
17 House counsel's office?

18 A Yes.

19 Q And were all documents that were in your
20 possession at that time relating to the handling of
21 Mr. Foster's papers provided to the White House
22 counsel's office?

10

1 A Yes.

2 Q So you don't have any notes, reports,
3 memoranda in your personal possession relating to the
4 handling of Mr. Foster's papers?

5 A None that the White House does not have.

6 MR. ROMATOWSKI: Let me say this: As
7 counsel to Mr. Sloan, we have been provided with
8 copies of some of the documents produced to you and
9 to others inquiring into these matters, but in every
10 case, they are simply duplicates of documents
11 produced in response to various investigations.

12 BY MR. GIUFFRA:

13 Q What is your present position?

14 A I am a partner at Wiley, Rein & Fielding.

15 Q When did you become a partner at Wiley,
16 Rein & Fielding?

17 A Beginning of April of this year.

18 Q Prior to becoming a partner in Wiley,
19 Rein & Fielding, what position did you hold?

20 A Associate counsel to the President.

21 Q When did you hold that position?

22 A From June of 1993 until March of 1995.

1 Q Do you recall roughly when you started in
2 June of '93?

3 A I believe that my official starting date
4 was June 14th. I would have to double-check that. I
5 started coming into the White House in the White
6 House counsel's office for a few weeks before that
7 while I was still wrapping up matters at my old law
8 firm. I think that my official starting date was
9 June 14th or thereabouts.

0 Q Prior to joining the White House, what
1 position did you hold?

2 A I was a partner at Mayer, Brown & Platt.
3 It is a Chicago law firm. I was in their Washington
4 office.

5 Q How long were you at Mayer, Brown & Platt?

6 A From October 1991 until June 1993.

7 Q Prior to joining Mayer, Brown & Platt, what
8 firm were you with?

9 A I was not with a firm. I was assistant to
0 the Solicitor General.

1 Q At the Department of Justice?

2 A Yes.

1 Q And what was the period in which you held
2 that position?

3 A From around June of 1989 until September
4 1991.

5 Q What position did you hold prior to joining
6 the SG's office?

7 A I was at the law firm of Onek, Klein &
8 Farr.

9 Q How long were you at Onek, Klein & Farr?

0 A From December 1988 until about June of
1 1989.

2 Q Did you hold any other positions after law
3 school?

4 A Yes.

5 Q Why don't you just run through them.

6 A I graduated from law school and then I
7 clerked for Judge J. Skelly Wright on the United
8 States Court of Appeals for the District of Columbia
9 Circuit. I then clerked for Justice John Paul
0 Stevens on the Supreme Court. I then directed a
1 study for the 20th Century Fund and the Harvard
2 Institute of Politics on presidential debates. Then

1 from January of 1987 until November of 1988, I was
2 associate counsel in the Office of Independent
3 Counsel on Iran Contra.

4 Q Where did you go to law school?

5 A Harvard.

6 Q Your graduation date?

7 A 1984.

8 Q What were your responsibilities in the
9 counsel's office in the period July 1993?

10 A Well, they varied. They included some
11 constitutional issues, which had been the primary
12 area of responsibility for the position that I had
13 been hired for. It included such items as working on
14 the nomination and confirmation of Judge Louis Freeh
15 to be director of the FBI, and it included various
16 other matters in the counsel's office. There were a
17 range of things that I worked on.

18 Q Can you identify any of the other matters
19 you worked on?

20 A Sure. One of them had to do with the
21 travel office. I was a liaison with respect to
22 certain activities -- with respect to certain

1 inquiries that were going on on behalf of the
2 counsel's office.

3 Q Could you describe the nature of those
4 inquiries for the record.

5 A I would be happy to. I have to raise one
6 question about ground rules.

7 MR. GIUFFRA: Do you want to go off the
8 record?

9 MR. ROMATOWSKI: Yes.

10 (Discussion off the record.)

11 MR. GIUFFRA: Read back the last question.

12 (The reporter read the record as requested.)

13 THE WITNESS: It was referring to being a
14 liaison with respect to various inquiries. For
15 example, if the Justice Department had a request for
16 documents or other requests, I was a point of contact
17 with the Justice Department in terms of facilitating
18 their requests. That's an example of the kind of
19 liaison responsibility I'm referring to.

20 BY MR. GIUFFRA:

21 Q Did you work with Mr. Foster in connection
22 with performing that liaison responsibility?

1 A It would come up from time to time. I
2 wasn't primarily working with him on it, but
3 occasionally I did.

4 Q Can you identify any other matters that you
5 were involved in in this period of June -- let's say
6 July 1993?

7 A Any other matters at all?

8 Q Yes.

9 A Let's see. There were various
10 constitutional issues or legal policy questions.
11 Gays in the military was an issue that was under
12 review at that time, and I had some involvement in
13 that issue. I can think of some pieces of
14 legislation that I was asked to look at the
15 constitutionality of them in connection with it.
16 Those are the kinds of things that come to mind.

17 Q How were responsibilities divided among the
18 associate counsel in the counsel's office in this
19 period, July 1993?

20 A Well, let's see. People had different
21 areas of responsibility. Some of the areas of
22 responsibility were more confined or specific than

1 others. Other people had varied portfolios. I was
2 somebody who, I think, had more of a kind of varied
3 portfolio.

4 Q If you could just go through the other
5 associate counsel and identify, in general terms, the
6 matters over which they had responsibility.

7 A Sure. Well, Ron Klain was an associate
8 counsel, and he was responsible for judicial
9 nominations, and in this period he was very involved
10 in the nomination and confirmation of Justice
11 Ginsburg. Beth Nolan was responsible for ethics
12 matters and reviewing financial disclosure forms.
13 Bill Kennedy was responsible for security related
14 issues, including FBI background checks.

15 Cheryl Mills had various responsibilities,
16 including, I think, review of various payments and
17 expense descriptions.

18 Q Could you describe that a little bit more.

19 MR. ROMATOWSKI: Well, maybe we shouldn't.
20 Maybe we should talk about that.

21 MR. GIUFFRA: Shall we go off the record?

22 MR. ROMATOWSKI: Yes.

1 (Witness conferred with counsel.)

2 THE WITNESS: Just to clarify, what I was
3 thinking of were things like reimbursement for things
4 like official expenses, business travel, what would
5 be classified as White House travel if a White House
6 staffer was traveling for an official function. All
7 of those kinds of forms, it was my understanding,
8 would be within the kind of thing that she did. I
9 didn't work with her on those kinds of things, so I'm
10 giving you a general perception of it. That's what I
11 was referring to.

12 BY MR. GIUFFRA:

13 Q Was there anyone else in the counsel's
14 office at the associate counsel or assistant counsel
15 level?

16 A At the assistant counsel level there was
17 Clarissa Cerda.

18 Q What did she work on?

19 A She assisted associate counsel on various
20 matters, to some extent on a project-by-project
21 basis. I think she also worked with Cheryl on a
22 number of things, and there was a special counsel who

18

1 had been detailed to the office named Frank Sobol
2 whose responsibility had to do with Freedom of
3 Information Act requests and use of the White House
4 seal, unauthorized use of the White House seal, and
5 various issues like that that came up.

6 There were other people, I'm not exactly
7 sure what their title was, who worked on things like
8 vetting and review of issues with respect to
9 potential nominees.

10 Q Do you recall the names of those people?

11 A Peter Pappas was one person at that time.
12 I don't recall anybody else offhand, but there may
13 have been others who were doing that.

14 Q Steve Neuwirth was an associate counsel.

15 A Did I leave him out? Steve also. He had a
16 varied portfolio with respect to a range of issues.

17 Q Do you recall specifically what issues he
18 worked on?

19 A There would be, I think, various legal
20 policy issues. I think that -- I think that there
21 were certain cases in litigation that he was kind of
22 following on behalf of the White House counsel's

1 office.

2 Q Could you describe that a little bit more
3 in detail.

4 MR. ROMATOWSKI: Well, I think Mr. Sloan
5 hesitates, and I think properly so, wondering whether
6 this strays really beyond the scope of our purpose
7 here today. To get into specific things that
8 Mr. Neuwirth was working on, first of all, I suppose
9 most directly it is a proper question for
10 Mr. Neuwirth, but for Mr. Sloan's part, I raise the
11 question whether or not we are straying beyond the
12 subject of handling of Foster documents. If there is
13 a way to relate the question more specifically to the
14 topic, I suppose it can be confined to a proper
15 scope. I'm a little uneasy about going beyond the
16 most general description of what these different
17 people's functions are.

18 MR. GIUFFRA: Let's go off the record.

19 (Discussion off the record.)

20 MR. GIUFFRA: Let's hear the question,
21 again.

22 (The reporter read the record as requested.)

20

1 BY MR. GIUFFRA:

2 Q When you say "legal policy matters," that's
3 an indefinite, at least to me, description of what he
4 did. Can you provide a little bit more specificity
5 as to, at least, your understanding of the matters
6 that Mr. Neuwirth was working on during this period
7 July 1993.

8 A Let me respond by giving you examples of a
9 couple of the cases in litigation that I can remember
10 from this period of June and July 1993. I believe
11 that there was activity with respect to a case known
12 as the Armstrong case, which has to do with the
13 characterization of White House documents either
14 under the Presidential Records Act or the Freedom of
15 Information Act, but it has to do with the
16 preservation and maintenance of White House records.
17 That was one example.

18 Another example had to do with the
19 litigation regarding the health care task force that
20 was going on at the time.

21 Q Was it your understanding that Mr. Neuwirth
22 had worked at the Wachtel, Lipton law firm with

1 Mr. Nussbaum?

2 A Yes.

3 Q Did Mr. Neuwirth have an especially close
4 relationship with Mr. Nussbaum?

5 A I don't know how you would define
6 "especially close relationship." I think that they
7 had a good relationship and a good working
8 relationship.

9 Q Was it your perception that Mr. Neuwirth
10 worked more with Mr. Nussbaum than the other
11 associate counsel?

12 A No, in the sense that I thought that all of
13 the associate counsel worked fairly closely with
14 Mr. Nussbaum on the matters that they were working
15 on. Depending on the matters -- at different times,
16 somebody might have more or less contact with
17 Mr. Nussbaum, depending on what was going on at the
18 time, but I felt he worked closely with all the
19 associate counsel.

20 Q Would it be your perception that he worked
21 more closely with Mr. Neuwirth? Or would your
22 testimony be it was equally divided among all the

22

1 other associate counsel?

2 A My testimony wouldn't be that it was
3 equally divided. As I just said, depending on what
4 somebody was working on at a particular time, it
5 might require more or less contact and involvement
6 with Mr. Nussbaum, but my perception was that it
7 depended on the issue rather than on the person in
8 terms of the relationships.

9 Q Did Mr. Neuwirth work on more issues that
10 Mr. Nussbaum had an interest in than the other
11 associate counsel?

12 A Mr. Nussbaum had an interest in all the
13 issues in the office.

14 Q What was the location of your office on
15 July 20, 1993?

16 A I was on the first floor of the Old
17 Executive Office Building.

18 Q What was your office telephone number?

19 A I believe it was 456-7900.

20 Q What was your home telephone number?

21 MR. GIUFFRA: Off the record.

22 (Discussion off the record.)

1 BY MR. GIUFFRA:

2 Q Mr. Sloan, with regard to the office number
3 that you just provided, 456-7900, was that your
4 personal office number?

5 A No, it was an office number for a few
6 people in the White House counsel's office. I also
7 had a direct line. I don't remember my number
8 offhand.

9 Q The 7900 number, do you recall the other
10 persons?

11 A Cheryl Mills was definitely on it, and I
12 don't remember if anybody else was. At different
13 times I think that Clarissa Cerda was on that number
14 as well, and I'm not sure if anybody else was.

15 Q What was your understanding as to the
16 extent of Mr. Nussbaum's contact with President
17 Clinton during this period July 1993?

18 A I don't know if I'm in a position to
19 answer. I'm trying to recall what I knew about
20 Mr. Nussbaum's contacts with the President in July of
21 1993 or direct conversations with him. As I think
22 about it, one thing that occurs to me is that for a

1 substantial period of that time, the President, I
2 think, was in Tokyo in connection with an economic
3 summit. During part of the time, Mr. Nussbaum was
4 out of town on vacation.

5 But I can remember some conversations and
6 some meetings, for example, in connection with the
7 Louis Freeh nomination which took place in that
8 period. Beyond that, it is difficult for me to
9 characterize it.

10 Q During the period when you were an
11 associate counsel to the President and Mr. Nussbaum
12 was counsel for the President, what was your
13 understanding of the extent of Mr. Nussbaum's contact
14 with the President?

15 A My understanding was that they would have
16 oral conversations or written communications on an
17 as-needed basis. So, again, it would depend on the
18 particular issue, but that if there was an issue or a
19 matter that required Mr. Nussbaum to be communicating
20 with the President, either orally or in writing, he
21 would do so.

22 Q Was it your understanding during the period

1 that you served as an associate counsel and
2 Mr. Nussbaum served as counsel to the President that
3 Mr. Nussbaum was in daily contact with the President?

4 A It would depend on the issue and the
5 subject. It wasn't -- to my knowledge, there wasn't
6 a regularly scheduled daily meeting. If there was an
7 issue that required daily contact, then there would
8 be daily contact. If there wasn't an issue or a
9 matter that required it, then there wouldn't be. It
10 varied according to what was going on.

11 Q Was it your understanding that Mr. Nussbaum
12 was a close aide of the President?

13 A I don't know what you mean by "close aide
14 of the President." He was counsel to the President,
15 which meant he was on the senior staff, and it was a
16 very important position as an advisor to the
17 President.

18 Q Did you have any understanding as to
19 whether Mr. Nussbaum was in regular communication
20 with the President by telephone?

21 A I don't have a recollection of telephone
22 conversations in that period as such, but again, it

1 would depend on -- it would be on an as-needed
2 basis. If there was a situation in which
3 Mr. Nussbaum needed to communicate with the President
4 and the telephone made the most sense, that would be
5 the manner of communication.

6 Q Now, and again, let's do this based on the
7 period when you were associate counsel to the
8 President. Were you a frequent visitor to the
9 counsel's suite in the west wing?

10 A Let me try to explain it as precisely as I
11 can. There was a morning -- a regular morning
12 meeting of the counsel's office, which would take
13 place in Mr. Nussbaum's office. I would almost
14 always go to that. And other than that -- it would
15 depend on what I was working on, but it certainly
16 would not be uncommon for me to be over there or to
17 kind of go over to the counsel's office suite during
18 the day, but again, it would depend on what I was
19 working on and whether I needed to -- whether it was
20 something that required me to go over there.

21 Q Do you know who Maggie Williams is?

22 A Yes.

1 Q Who is Maggie Williams?

2 A She is the chief of staff to the First Lady
3 and assistant to the President.

4 Q What was your understanding -- strike that.

5 Let me preface this question by -- let's
6 limit this to the period when you became an associate
7 counsel to the time when Mr. Nussbaum was no longer
8 counsel to the President. Let's strike that.

9 When did Mr. Nussbaum leave as counsel to
10 the President?

11 A I believe it was in March of 1994.

12 Q All right. So from the period June 1993 to
13 March 1994, what was your understanding as to the
14 extent of contact between the counsel's office and
15 Ms. Williams?

16 A I guess I have a question of scope in terms
17 of timing.

18 MR. GIUFFRA: You want to go off the
19 record?

20 THE WITNESS: Okay.

21 (Discussion off the record.)

22 MR. GIUFFRA: You want to read the question

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1 back.

2 (The reporter read the record as requested.)

3 MR. ROMATOWSKI: Mr. Sloan will address the
4 question, because the substance of his answer is he
5 doesn't know. But as I have explained to you off the
6 record, we do have a concern about the broad scope of
7 some of these questions that are, to our
8 understanding, beyond the scope of our subject here
9 today, and more to the point, perhaps, for our
10 purposes, they are beyond the scope of Mr. Sloan's
11 instructions from the White House counsel's office
12 about how far the waiver of privileges extends and
13 how far he may go in answering. We will simply have
14 to take your questions one at a time and consider
15 them in that regard. We have done our best to
16 explain to you -- in a general way to explain to you
17 what those instructions to Mr. Sloan are. We will
18 have to feel our way question by question to see to
19 it you get the information you need and we respect
20 the bounds of his instructions from the White House.

21 MR. GIUFFRA: Can I ask just one question?
22 The privilege you are referring to, is this executive

1 privilege or is it attorney-client privilege?

2 MR. ROMATOWSKI: I'm not counsel to the
3 White House, to the President, or anyone else. I am
4 counsel to Mr. Sloan. Mr. Sloan held a sensitive
5 position as an attorney in the White House. Having
6 departed that job, nevertheless, he carries with him
7 obligations to respect instructions from that client
8 as to confidentiality.

9 I, as his counsel, will do my best to see
10 to it that he honors those instructions. It is not
11 for us to interpret or determine or argue legal
12 privilege on their behalf. So I don't purport to do
13 so. My charter is more narrow. It is to try and
14 understand the instructions to my client and help him
15 respect those instructions as best he can. I have
16 done my best to explain to you off the record what
17 those are. I think that the --

18 MR. GIUFFRA: My question, Counsel, though,
19 is it is difficult in asking questions if one does
20 not know whether the privilege that is being asserted
21 is attorney-client privilege, which is something that
22 we are all familiar with, and executive privilege,

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1 which is a broader and more discretionary privilege.
2 So it would be very helpful in formulating my
3 questions to know whether the privilege that is being
4 asserted is executive privilege or attorney-client
5 privilege.

6 MR. ROMATOWSKI: My answer to you, Counsel,
7 is you will have to address the White House on the
8 legal question. What I can explain to you --

9 MR. GIUFFRA: Is your instruction just that
10 the White House is asserting a privilege generally,
11 and has not explained to you whether it is executive
12 privilege or attorney-client privilege?

13 MR. ROMATOWSKI: No. As explained to you
14 off the record, let me summarize in general terms.
15 Mr. Sloan's instructions from the White House are to
16 cooperate fully and answer all of your questions as
17 to matters plainly relating to the handling of Foster
18 documents and as to other issues within the scope of
19 the Committee's jurisdiction that occurred at any
20 time prior to Mr. Foster's death.

21 On the other hand, he is not to answer
22 questions that get to efforts on the part of the

1 White House to respond to requests from the
2 independent counsel, to prepare for Congressional
3 hearings, to answer press inquiries related to the
4 independent counsel or to Congressional hearings, or
5 to the subject of inquiries from Mr. Sloan to the
6 White House counsel.

7 In doing our best to interpret those
8 instructions, your broad question about the extent of
9 the counsel's office's relationship to Ms. Williams
10 through the entire period through March of 1994
11 strays beyond the events relating to Foster's
12 documents and well beyond any matters occurring prior
13 to Mr. Foster's death in July 1993.

14 So, what I can offer you as far as
15 information is, as I stated, as far as White House
16 instructions. We will do our best to help guide you
17 and Mr. Sloan through the course of this to see to it
18 those bounds are respected.

19 MR. GIUFFRA: Will Mr. Sloan only be
20 responding to questions plainly -- is that the
21 word -- plainly related to the handling of
22 Mr. Foster's documents?

1 MR. ROMATOWSKI: Plainly is the word used
2 in our instructions. I don't think we need to
3 stumble over that adverb at the moment. What we can
4 do is simply take your questions one by one, and I
5 think you will be satisfied you get all the
6 information you need.

7 BY MR. GIUFFRA:

8 Q Do you want to respond to the pending
9 question?

10 A Sure. The question, as I understand it,
11 was the extent of White House --

12 Q Your understanding as to the extent of
13 Ms. Williams's contact with the counsel's office
14 during the period that you were an associate counsel
15 and Mr. Nussbaum was counsel.

16 A It is impossible for me to characterize on
17 behalf of the White House counsel's office as a
18 whole. If there was an issue that related to
19 something that I needed to talk to Ms. Williams
20 about, I would talk to her about it, and that wasn't
21 that frequent. I would see her in the halls or maybe
22 sometimes talk to her on a social basis, and I was

1 aware of other people in the White House talking to
2 her about issues that would come up that related to
3 the things that they were working on. I am not in a
4 position to describe the frequency of those
5 contacts.

6 Q What was your understanding of the
7 frequency of those contacts?

8 A My understanding was that it was on an
9 as-needed basis. Issues would come up and if there
10 was a reason to talk to Ms. Williams about those
11 issues, people would talk to her about it. This
12 would occur with respect to various issues, but I
13 can't characterize the frequency of it, and I also,
14 obviously, don't know everything that everybody in
15 the office was doing at all times.

16 Q The question does not ask you to make a
17 representation on behalf of the entire counsel's
18 office. The question just asks for your
19 understanding based on your knowledge and from what
20 people told you with regard to the extent of her
21 contacts with the counsel's office.

22 A My answer would be that -- my understanding

1 of the extent of her contacts with the counsel's
2 office was that there would be contacts with respect
3 to official matters when the need arose and that this
4 happened with respect to various issues. I don't
5 have an understanding of the frequency of it, which
6 is what I understand you to be saying by "extent."

7 Q Am I correct that the First Lady's office
8 in the West Wing is next door to the counsel's suite
9 in the West Wing?

10 A Yes.

11 Q Did you on occasion see Ms. Williams in the
12 counsel's suite during times when you were in the
13 counsel's suite when you served as an associate
14 counsel?

15 A One or two -- I can think of some instances
16 when that occurred.

17 Q Would you describe it as a small number of
18 instances, a large number of instances?

19 A As I sit here now trying to think back on
20 it and understanding the full range of the question,
21 it is a relatively small number of instances. That
22 is just my best recollection as I try to sit here now

1 and recall.

2 Q What was your understanding as to the
3 extent of the First Lady's contacts with the
4 counsel's office during the period June '93 through
5 March 1994?

6 MR. ROMATOWSKI: Same objection, unless
7 your answer is I don't know.

8 THE WITNESS: My answer is I'm not in a
9 position to characterize.

10 BY MR. GIUFFRA:

11 Q Did you have an understanding yourself?

12 A Of what?

13 Q The extent of her contacts.

14 A Could you define what you mean by
15 "extent."

16 Q Frequency.

17 A I would not be in a position to make an
18 estimate about the contacts between the counsel's
19 office and the First Lady as a whole.

20 Q Do you have any recollection of the First
21 Lady being present in the counsel's office suite in
22 the West Wing while you were present in that same

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1 suite?

2 A Ever?

3 Q Yes.

4 A Yes.

5 Q Do you recall the number of times in which
6 the First Lady was in the counsel's suite when you
7 were present in the counsel's suite during the time
8 when you served as an associate counsel to the
9 President?

10 A Very few.

11 Q So, would it be fair to say that your
12 testimony would be that the counsel's office had a
13 relatively infrequent contact with the First Lady's
14 office?

15 A That absolutely would not be fair to say.

16 Q What would be a fair statement as
17 describing, from your understanding, the extent of
18 the contacts between the First Lady's office and the
19 counsel's office?

20 MR. ROMATOWSKI: The First Lady's office
21 rather than the First Lady herself?

22 THE WITNESS: With respect to either, as I

1 have said a number of times, I'm not in a position to
2 estimate the frequency, which is what I understand
3 you said your question relates to. I'm not in a
4 position to estimate the frequency of the contacts
5 between the White House counsel's office and the
6 First Lady's office or the White House counsel's
7 office and the First Lady herself. I'm just not in a
8 position to make the estimate that you seem to be
9 seeking.

10 MR. KRAVITZ: Can I make a suggestion?
11 This is on the record. Let me make a suggestion that
12 we move forward a little bit. We have now already
13 been going more than an hour. I can't think one of
14 question you have asked that has elicited anything
15 relevant to the hearings that are starting in less
16 than two weeks. I would like to be able to ask some
17 questions before 8:30 tonight, which is what you did
18 to me in yesterday's deposition. I just don't know
19 what you are doing. I think some of the concerns
20 that have been stated by Mr. Sloan's counsel have to
21 do with your going beyond the scope. There have been
22 discussions between Republican staff and Democratic

1 staff over the past month over inquiries into areas
2 that you know are privileged. I don't know whether
3 you are trying to goad the White House into asserting
4 privileges or not. I hope that is not what you are
5 doing. I think that would be an inappropriate thing
6 to do. We are not within any range of relevance
7 here. I think we ought to move on to something that
8 has some relevance to the subject at hand.

9 At least if you are going to ask irrelevant
10 questions, why don't you try to limit the times you
11 ask each one.

12 BY MR. GIUFFRA:

13 Q During the period June, July 1993, how
14 would you characterize the relationship between the
15 White House counsel's office and the First Lady's
16 office?

17 A Could you define what you mean by
18 characterizing the relationship between the White
19 House counsel's office and the First Lady's office?

20 Q What was your understanding of the nature
21 of the relationship between the First Lady's office
22 and the White House counsel's office in June and July

1 1993?

2 A My understanding was that if there were
3 issues that required contact on official matters
4 between the White House counsel's office and the
5 First Lady's office, there would be communications
6 and working together on that, as was the case with
7 the relationship between the White House counsel's
8 office and other offices in the White House.

9 Q Would it be fair to say that during the
10 period June to July 1993 that there were infrequent
11 contacts between the First Lady's office and the
12 counsel's office?

13 A I'm not in a position to answer that
14 question.

15 Q What was your understanding?

16 A I didn't have an understanding, and
17 wouldn't purport to have one, about the level of
18 contacts between the White House counsel's office as
19 a whole and the First Lady's office as a whole.

20 Q What was the nature of your relationship
21 with Vincent Foster?

22 MR. ROMATOWSKI: Whose relationship with

1 Vincent Foster?

2 MR. GIUFFRA: Mr. Sloan's relationship.

3 MR. ROMATOWSKI: Okay.

4 THE WITNESS: I worked with him in the
5 counsel's office in the period of the several weeks
6 from the time that I started until his death. I did
7 not know him before that. I had been interviewed by
8 him and Mr. Nussbaum for the job and I met him in
9 that context, but I didn't know him before that.

10 I saw him most mornings at counsel's
11 office, and other than that, I would work with him
12 with regard to particular issues and would also
13 report to him, either along with Mr. Nussbaum or if
14 Mr. Nussbaum wasn't there and he would be the senior
15 person in the office.

16 BY MR. GIUFFRA:

17 Q Can you roughly estimate the frequency of
18 your contact with Mr. Foster during the period when
19 you both worked in the White House counsel's office?

20 A Not beyond the answer that I just gave.

21 Q What was your understanding during the
22 period when you both worked in the White House

1 counsel's office of Mr. Foster's areas of
2 responsibility?

3 A Mr. Foster, first of all, shared general
4 supervisory authority with Mr. Nussbaum over the
5 issues in the office. So it was my understanding
6 that he had some overall responsibility with
7 Mr. Nussbaum.

8 In addition to that, I remember his being
9 involved in the health care issue as an issue that he
10 was working on. I also remember that with respect to
11 issues related to the management of the White House
12 or the administration of the White House, such as the
13 residence and those types of areas at the White
14 House, I had a general perception, but I didn't know
15 the specifics, that Mr. Foster worked on those kinds
16 of matters as well.

17 Q Can you think of any specific matters,
18 other matters that Mr. Foster worked on that you are
19 aware of?

20 A Beyond those that I have just described?

21 Q Yes.

22 A None that come to mind right now.

1 Q Were you aware that Mr. Foster was involved
2 in --

3 A Can I just -- I just want to supplement my
4 answer to the last question, which is that in the
5 course of the review of the documents in Mr. Foster's
6 office on July 22nd, Mr. Nussbaum described a lot of
7 things that were in Mr. Foster's office. So if your
8 question includes familiarity from that session, I
9 would obviously want to include that as part of my
10 knowledge of what Mr. Foster had been working on in
11 that period.

12 One other thing that comes to mind, to try
13 to make sure the record is as complete as possible on
14 this. I remember that Mr. Foster was involved in the
15 selection of a Supreme Court nominee that ultimately
16 ended up with the selection of Justice Ruth Bader
17 Ginsburg. But with respect to Justice Ginsburg and
18 other possible nominees, I remember Mr. Foster being
19 involved in that process as well.

20 Q Were you aware that Mr. Foster worked on
21 matters relating to financial disclosure?

22 A I had a general impression that he worked

1 on what I would call official/personal, some of the
2 obligations related to personal items, and I don't
3 remember whether I knew that in particular, but that
4 would have fit within the kind of general conception
5 of what I would have thought that he was working on.
6 I mentioned matters like the residence and just more
7 generally I would think of kind of official personal
8 things. I may well have known that specifically, but
9 I certainly would have included that within the more
10 general category of matters that I thought Mr. Foster
11 worked on.

12 Q Did you have any understanding as to
13 whether Mr. Foster was involved in the preparation of
14 financial disclosure forms for the President?

15 A I'm sorry. That was how I interpreted your
16 last question. That was what my answer related to.

17 Q And your answer would be yes?

18 A My answer would be that generally that
19 would have been within the category of issues that I
20 would have thought Mr. Foster worked on. I may well
21 have known that specifically. I don't recall as I
22 sit here now.

1 Q Did you have any understanding as to
2 whether Mr. Foster was involved in the preparation of
3 tax returns for the President and First Lady?

4 A I'm trying to recall. At some point I
5 became aware that he had been. I don't recall
6 whether I knew that before his death or learned that
7 subsequently.

8 Q And your knowledge with regard to whether
9 he worked on other personal legal matters of the
10 President and First Lady?

11 MR. KRAVITZ: You mean as of the time of
12 Mr. Foster's death?

13 BY MR. GIUFFRA:

14 Q As of the time of Mr. Foster's death.

15 A Could you restate the question.

16 Q Did you have any understanding, as of the
17 time of Mr. Foster's death, that he worked on
18 personal legal matters for the President and First
19 Lady?

20 A I didn't have any understanding of that
21 that I can recall. There is nothing else
22 specifically. When you say "personal legal matters,"

1 I want to emphasize that I have kind of referred to
2 this category of kind of official/personal matters as
3 the way I think of it. I did know he generally
4 worked on those kinds of things. Beyond that, if
5 what you are asking is did I know of anything beyond
6 that, there is nothing that comes to mind.

7 Q Did you have an understanding as to whether
8 Mr. Nussbaum worked on personal legal matters of the
9 President and First Lady?

10 A You keep using this term, and I'm a little
11 concerned. I want to make sure I understand. Could
12 you explain what you mean by "personal legal
13 matters."

14 Q Legal matters not bearing directly on the
15 President's official duties.

16 MR. KRAVITZ: I have a question. Why are
17 we asking about what Mr. Nussbaum was working on?

18 MR. GIUFFRA: Because if both Mr. Nussbaum
19 and Mr. Foster worked on such matters, that is a
20 relevant fact. If it was only Mr. Foster who worked
21 on such matters, that is a relevant fact. That's the
22 information I'm trying to elicit.

1 THE WITNESS: Let me try to clarify in the
2 interest of moving forward. The way you have just
3 described "personal legal matters," I just want to
4 make clear, is not what I have said that I was aware
5 that Mr. Foster was working on. Because you have
6 defined it was that as something that was not related
7 in any way to official functions. I would think of
8 it as filing of a financial disclosure form, which is
9 something that is required under law and that there
10 is a kind of institutional interest. I don't know
11 that he worked on that, but that is the kind of issue
12 that I'm talking about.

13 When you say personal legal matters
14 completely unrelated to the official functions, or
15 however you have defined it, I want to make it clear
16 that I was not aware of Mr. Foster working on that.
17 With respect to the things I was aware of him working
18 on, it was my sense that Mr. Foster was more
19 personally involved in working on those matters than
20 Mr. Nussbaum, but I also had the sense that
21 Mr. Nussbaum and Mr. Foster worked closely together
22 on all issues in the counsel's office, and so my

1 sense would have been that Mr. Nussbaum would have
2 known generally about those issues, to the extent
3 that I'm able to give an informed judgment on that.

4 BY MR. GIUFFRA:

5 Q So, would it be your testimony that prior
6 to Mr. Foster's death, you had no understanding that
7 he worked on personal legal matters of the President
8 and First Lady, i.e., matters not relating directly
9 to official duties?

10 MR. ROMATOWSKI: I object to the form of
11 the question.

12 MR. GIUFFRA: Why don't you read the
13 question back.

14 MR. ROMATOWSKI: We heard the question.

15 MR. KRAVITZ: Why don't you try to rephrase
16 it.

17 MR. GIUFFRA: Read the question back.
18 (The reporter read the record as requested.)

19 BY MR. GIUFFRA:

20 Q Do you understand the question?

21 A I would appreciate clarification of it.

22 MR. ROMATOWSKI: Look, do we get anywhere

1 with this? He has explained the difficulty in
2 drawing distinction and defining closely where
3 personal leaves off and official takes up, because
4 there are matters where the line blurs, after all.
5 He has done his best by example to describe to you
6 those with which he was acquainted that he believes
7 perhaps Mr. Foster had some responsibility for. When
8 are we going to get to the matter of handling
9 documents in Mr. Foster's office?

10 MR. GIUFFRA: Counsel, the record will
11 reflect that Mr. Sloan took issue with -- first of
12 all, I asked a series of questions relating to
13 financial disclosure forms. Then we got the personal
14 legal matters as a separate set of questions. When I
15 defined personal legal matters as meaning those not
16 relating to official duties, Mr. Sloan took exception
17 to that. I was a bit confused as to what his
18 response was to the question.

19 BY MR. GIUFFRA:

20 Q What was your understanding, as of 7/20/93,
21 of Mr. Foster's role in connection with personal
22 legal matters of the President and First Lady? And I

1 will define, i.e., those not relating to official
2 duties.

3 A The best way for me to explain is that my
4 understanding at the time was that there were matters
5 that might involve the intersection of personal and
6 official. Those were the kinds of things that my
7 sense was that Mr. Foster worked on, but I also
8 emphasize that I didn't know very much about what
9 Mr. Foster was doing with respect to these matters,
10 and so any characterization that I'm giving you is
11 very imprecise and not particularly well informed.

12 If you press me for my impression, then
13 that was my impression.

14 Q What was the basis for your impression?

15 A Well, I can't isolate the factors as I sit
16 here. I would -- I believe it would have been based
17 on my perception and things that I learned in the
18 office, based on conversations and other forums. As
19 I sit here, I don't recall exactly what gave me that
20 impression. I have given you the impression the best
21 that I can.

22 Q Do you know whether any of the other

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1 associate counsel to the President worked with
2 Mr. Foster on these matters at the intersection of
3 personal and official?

4 A For example, I know that Beth Nolan was
5 responsible for financial disclosure forms, including
6 the financial disclosure forms of the President and
7 the First Lady. I believe that either prior to his
8 death or afterwards I believe it is my understanding
9 that she discussed those matters with Mr. Foster. So
10 adding to the answer about the financial disclosure
11 forms -- talking about Ms. Nolan -- that comes to
12 mind. Certainly she was somebody who I would think
13 worked on that type of issue.

14 Q As of the time of Mr. Foster's death, do
15 you recall any discussion of Whitewater Development
16 Corporation?

17 A No. The answer -- I'm not sure if you mean
18 in the period before or at the time of his death. In
19 either event, the answer is no, but I don't remember
20 any discussion about Whitewater Development
21 Corporation during the time I was at the White House
22 up to July 20th.

1 Q What was your first knowledge of Whitewater
2 Development Corporation?

3 A I have a vague recollection of reading
4 about it during the campaign when it was an issue in
5 early 1992 in The New York Times. I had a vague
6 recollection of it being a campaign issue then. I
7 don't know whether I would have remembered the name,
8 Whitewater Development Corporation, but I remember
9 generally there was an issue that came up in early
10 '92, just from reading the newspapers at the time.

11 Q When during the course of your time as an
12 associate counsel to the President did you first
13 learn of Whitewater Development Corporation?

14 A The first that I heard of it would have
15 been in late September of 1993. Let me just kind of
16 add one qualification, which is that there was a
17 letter from Senator Bumpers in I think June or July
18 of 1993 which came to my attention again in the
19 events of March or April of 1994.

20 In that letter, Senator Bumpers was writing
21 on behalf of various constituents and, as I recall,
22 was writing about the RTC with respect to various

1 matters. It was kind of a constituent inquiry type
2 of letter. I believe that Madison was mentioned in
3 the letter. And ultimately I think Senator Bumpers's
4 letter was forwarded routinely by Mr. Nussbaum in
5 terms of saying here is an inquiry that we have
6 gotten from Senator Bumpers, please address it.

7 I believe that I worked on a draft of
8 Mr. Nussbaum's essentially pro forma letter, but this
9 is not something that I recalled or was aware that it
10 related to these events until much, much later, aside
11 from that would have been late September of 1993.

12 MR. ROMATOWSKI: Bumpers's letter did not
13 mention Whitewater by name as best as you recall;
14 right?

15 THE WITNESS: Right.

16 MR. ROMATOWSKI: But rather Madison
17 Guaranty.

18 THE WITNESS: Yes.

19 BY MR. GIUFFRA:

20 Q In what context did you learn of Whitewater
21 Development Corporation in late September 1993?

22 MR. KRAVITZ: Bob, this was the subject of

1 probably an all-day deposition and testimony before
2 the Committee last summer. I hope we are not going
3 to go into this.

4 MR. GIUFFRA: We are not going to go into
5 this. I wanted to have the one question answered so
6 the record will be complete.

7 THE WITNESS: On September 29th, 1993,
8 after a meeting on another subject, Jean Hanson was
9 in Bernie Nussbaum's office, and I was called in and
10 she related some information at that time.

11 BY MR. GIUFFRA:

12 Q When did you first learn -- strike that.

13 At the time of Mr. Foster's death, it would
14 be your testimony that you had no knowledge that he
15 had any involvement with Whitewater Development
16 matters?

17 A Could I ask for the question to be
18 restated.

19 Q I will rephrase it. At the time of
20 Mr. Foster's death, did you have any understanding as
21 to whether he had any involvement in Whitewater
22 Development matters?

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1 A I didn't have any understanding at all,
2 because I knew nothing about Whitewater Development
3 matters.

4 Q And when did you first learn -- did there
5 come a time when you learned that Mr. Foster had some
6 involvement in Whitewater Development matters?

7 A Yes.

8 Q And when was that?

9 A To the best of my knowledge, it was in
10 December 1993, when there was press attention to the
11 question of whether there had been a Whitewater file
12 in Mr. Foster's office.

13 Q Did Mr. Foster maintain a neat or a sloppy
14 office, as best you recall?

15 A I have to say I don't have a clear
16 recollection one way or the other.

17 Q Any recollection as to whether his desk --
18 papers were orderly maintained on his desk or not?

19 A I'm sorry, I don't recall that.

20 Q Do you know whether Mr. Foster worked at
21 his desk or at the coffee table in his office?

22 A I don't know what his general practice

1 was.

2 Q Do you recall seeing him work at the coffee
3 table in his office?

4 A I talked to him at the coffee table. I
5 mean, there were times in his office when I talked to
6 him where I would be sitting -- I think there was a
7 couch in front of the coffee table. I would be
8 sitting on the couch and he would be sitting on the
9 chair. I had conversations with him at the coffee
10 table, but I don't recall whether he worked there
11 beyond that it was a place to have conversations.

12 Q Do you recall whether he maintained papers
13 on top of the coffee table or just magazines?

14 A I don't recall.

15 Q Do you have any knowledge of how Mr. Foster
16 maintained documents in his office? Did you have any
17 knowledge as of the time of his death?

18 A As of the time of his death, no.

19 Q Did the counsel's office have a central
20 filing system during this period, June-July 1993?

21 A I don't know the answer to that question.
22 There was a set of files that was in the outer office

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1 of the counsel's suite that would have been at least
2 Mr. Nussbaum's files. There was not a central file,
3 if this is what you mean, where my files would be
4 integrated with other associate counsel's files and
5 kind of all of the office files as a whole. There
6 weren't those kinds of files. The associate counsel
7 would keep their own files, but there was a set of
8 files in the outer office of the counsel's office
9 suite.

10 Q Do you know whether there was a safe in
11 Mr. Foster's office?

12 A Not that I recall.

13 Q Was there a safe in Mr. Nussbaum's office?

14 A Yes.

15 Q Was that the safe that the members of the
16 counsel's office generally used to maintain storage
17 of materials that needed to be in a safe?

18 A I didn't know very much about that safe.
19 It certainly wasn't something that I used or put
20 documents in.

21 Q Do you have any recollection -- strike
22 that.

1 Did you maintain a burn bag in your office?

2 A Yes.

3 Q So far as you know, did the other associate
4 counsel maintain burn bags in their office?

5 A So far as I know, and it would be my
6 understanding that would be standard White House
7 practice.

8 Q Do you have an understanding as to whether
9 Mr. Foster maintained a burn bag in his office?

10 A I would expect that he did. I know that my
11 notes of the review in Mr. Nussbaum's office -- of
12 the review of documents in Mr. Foster's office
13 reflect a reference to a burn bag.

14 Q When did you learn of Mr. Foster's death?

15 A The night of July 20th, 1993.

16 Q Who contacted you?

17 A Pardon?

18 Q Who contacted you?

19 A Mr. Nussbaum.

20 Q And were you home at the time?

21 A Yes.

22 Q Do you recall the approximate time?

1 A I believe that it was around 11:00. That
2 might be -- that is a rough estimate.

3 Q What did Mr. Nussbaum say to you?

4 A As best I can recall, he said that he had
5 horrible news, very, very bad news, that Mr. Foster
6 had apparently driven someplace and shot himself or
7 killed himself. He didn't want me to hear it some
8 other way; he wanted to let me know.

9 Q Did you return to the White House on the
10 evening of July 20, 1993?

11 A No.

12 Q Did Mr. Nussbaum ask you to do anything?

13 A No.

14 Q Do you recall any other telephone calls you
15 might have made on July 20, 1993 or received?

16 MR. ROMATOWSKI: Well, after the news from
17 Mr. Nussbaum?

18 MR. GIUFFRA: Yes.

19 THE WITNESS: There were no other calls.

20 MR. GIUFFRA: Do you want to take a break
21 here?

22 MR. KRAVITZ: I do.

1 THE WITNESS: Okay.

2 (Recess.)

3 BY MR. GIUFFRA:

4 Q Mr. Sloan, do you know if on the night of
5 July 20, 1993 any law enforcement official asked the
6 White House to seal Mr. Foster's office?

7 A I have heard reports of that or seen
8 reports of that in the press from considerably after
9 the time in question, but I don't recall knowing that
10 in the immediate aftermath of Mr. Foster's death.

11 Q So it would be your testimony that you
12 never discussed whether there was such a request made
13 by law enforcement officials with Mr. Nussbaum?

14 MR. ROMATOWSKI: No. Your last leading
15 question certainly doesn't follow from the previous
16 answer. That he never discussed such a request with
17 Mr. Nussbaum?

18 BY MR. GIUFFRA:

19 Q Did you ever discuss whether a request had
20 been made to seal Mr. Foster's office on the night of
21 his death with Mr. Nussbaum?

22 A When there were various press articles in

1 the weeks and months after Mr. Foster's death about
2 the events that went on, I discussed various matters
3 with Mr. Nussbaum and others about what was in the
4 press. I'm not sure as I sit here whether that
5 particular item, which I believe was in the press, is
6 something that came up in those discussions with
7 Mr. Nussbaum. It may have if it was in the papers,
8 but I don't have a specific recollection.

9 Q Do you have a general recollection of ever
10 discussing whether a request had been made to seal
11 Mr. Foster's office with Mr. Nussbaum?

12 A What I recall coming up from press
13 accounts -- and this is kind of a vague
14 recollection -- is that Mr. McLarty had conveyed to
15 Mr. Nussbaum a request to seal the office, and
16 Mr. Nussbaum did not recall such a request. I
17 believe that Mr. Nussbaum said that he didn't recall
18 such a request.

19 This is, as I say, some considerable period
20 of time after the events in question. It is my best
21 recollection, but the recollection might be
22 imperfect.

1 Q Did Mr. McLarty ever indicate to you that
2 he had conveyed a request to Mr. Nussbaum to seal
3 Mr. Foster's office?

4 A I never spoke to Mr. McLarty about that
5 subject.

6 Q Could you just state for the record what
7 the basis is for your understanding that such a
8 request was made.

9 MR. ROMATOWSKI: What --

10 THE WITNESS: Could you clarify what "such
11 a request" means.

12 BY MR. GIUFFRA:

13 Q Could you state for the record what your
14 basis is for the understanding that there may have
15 been a request from McLarty to Nussbaum on the night
16 of Mr. Foster's death with regard to sealing
17 Mr. Foster's office.

18 A I believe that it was either in press
19 accounts or in response to press inquiries, but I
20 don't recall any more specifically than that.

21 Q So, is your knowledge of such a request
22 based solely on press accounts?

1 A I'm sorry?

2 Q Is your knowledge with regard to whether
3 such a request was made based solely on press
4 accounts?

5 A No. As I said, I think -- to the best that
6 I can recall, I think that the issue came up because
7 of press accounts, and I think that I recall
8 Mr. Nussbaum saying that he didn't recall Mr. McLarty
9 making such a request to him.

10 Q Do you recall any other discussions at the
11 White House relating to a possible McLarty request to
12 Mr. Nussbaum to seal the office on the night of
13 Mr. Foster's death?

14 A None that I recall.

15 Q And when you say you don't recall, that
16 includes any sort of general recollection or vague
17 recollection?

18 A I have given you what I recall, and I don't
19 recall anything further.

20 Q But I just want to be clear. When you say
21 you don't recall, it is not specific recollection;
22 you don't even have a general recollection of the

1 subject matter other than what you testified to?

2 A Other than what I have testified to, that's
3 right. I want to say, to the extent that it was in
4 press accounts, it may have been the subject of
5 incidental conversations. There is nothing that
6 comes to mind as I try to recall. I have given you
7 exactly what I recall.

8 Q Do you have any knowledge with regard to
9 whether Mr. Nussbaum entered Mr. Foster's office on
10 the night of July 20, 1993?

11 A Yes.

12 Q Could you please provide for the record
13 what information you have with regard to whether
14 Mr. Nussbaum entered Mr. Foster's office on the night
15 of July 20, 1993.

16 A I heard Mr. Nussbaum describe it on several
17 occasions.

18 Q Could you please state for the record what
19 Mr. Nussbaum has said about his entry into
20 Mr. Foster's office on the night of July 20, 1993.

21 A As best I can recall, he said that he went
22 in and I think he said that Maggie Williams and Patsy

1 Thomasson were there, either were there or came
2 shortly after, but I think were there. And I think
3 he described that Maggie Williams was sitting on the
4 couch crying and that they briefly looked to see if
5 there was a suicide note or anything like that on the
6 desk.

7 Q Do you know who in the period July 1993
8 would have had a key to the counsel's office suite in
9 the West Wing?

10 A I'm not sure. One thing -- I don't know
11 for a fact whether access was by key or by some kind
12 of combination. I'm not sure. I don't have specific
13 knowledge. I don't have particular knowledge of
14 that. If you are asking me who I would think in
15 recognizing and speculating, who I would think, I
16 would think the people in that suite, which would be
17 the counsel and the deputy counsel and the
18 secretaries as well as administrative people in the
19 White House, but that is not based on anything that I
20 know for a fact.

21 Q Okay, but it is your recollection that
22 Mr. Nussbaum told you that Ms. Williams and

1 Ms. Thomasson were already in Mr. Foster's office
2 when he arrived in the counsel's suite?

3 A No. Let me correct that in a couple of
4 respects, because, first of all, I didn't say when he
5 arrived in the counsel's suite. I said when he went
6 into Mr. Foster's office. Of course his office is
7 right next to Mr. Foster's office in the counsel's
8 suite. So I don't know about that.

9 The other thing I said is that I think that
10 is right. To the best of my recollection, that's
11 what he said, but I'm not entirely positive about
12 that.

13 MR. ROMATOWSKI: Can I understand this
14 better. Do you understand Mr. Nussbaum to have said
15 whether they were already there or whether they
16 arrived later, or do you remember anything he said
17 about the sequence in that respect?

18 THE WITNESS: Well, my impression is that
19 they were there, but I'm not entirely certain about
20 it. It may have been also that they kind of came at
21 about the same time. I'm not entirely certain of
22 that.

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1 BY MR. GIUFFRA:

2 Q Are you aware of anyone else entering
3 Mr. Foster's office on the night of July 20, 1993?

4 A No.

5 Q Did Mr. Nussbaum indicate to you how long
6 he was in Mr. Foster's office on the night of July
7 20, 1993?

8 A He indicated that it was a relatively brief
9 period of time that he and the others were in
10 Mr. Foster's office.

11 Q Did he indicate to you whether it was five
12 minutes, 10 minutes, 20 minutes, 30 minutes?

13 A I remember that there was an issue that
14 came up in the press about that it had been reported
15 whether it was 10 minutes or two hours. I remember
16 that issue coming up and being discussed. So, 10
17 minutes comes to mind as associated with that
18 relatively brief period of time.

19 Q Now, was it your understanding that Maggie
20 Williams had a close relationship with Mr. Foster?

21 A It was my sense that they worked together
22 on various issues.

1 Q How would you describe their relationship?

2 Would you say it was a close relationship? A
3 professional relationship? A personal relationship?

4 A I would have absolutely no knowledge
5 outside of a professional context. They worked
6 together on various issues.

7 Q Do you have any understanding as to the
8 nature of Ms. Thomasson's relationship with
9 Mr. Foster?

10 A No, other than that I knew that they were
11 both from Arkansas, and I believe knew -- I believe
12 it was my understanding or my impression that they
13 had known each other in Arkansas.

14 Q What was Ms. Thomasson's position at the
15 White House?

16 A I may not get the title exactly right. I
17 think that she was director of administration for the
18 White House, but I may have that title a little bit
19 wrong.

20 Q Was it your understanding that she had some
21 responsibility for security-related matters?

22 A It was my understanding that she had

1 responsibility for a lot of logistics at the White
2 House in terms of how the White House operated
3 administratively.

4 Q Do you have any understanding as to whether
5 she would have been able to obtain entrance into the
6 counsel's suite?

7 A I don't know for a fact one way or the
8 other.

9 Q Have you ever spoken to Ms. Williams with
10 regard to her activities in Mr. Foster's office on
11 the night of July 20?

12 A Yes.

13 Q And what has Ms. Williams told you?

14 A She told me, as best I can recall, that she
15 saw a light on in the counsel's office and wandered
16 into the counsel's office, and I believe said that
17 she sat on the couch and was very upset.

18 Q Did she indicate to you whether anyone was
19 in the counsel's office suite when she saw this light
20 was on?

21 A I'm trying to recall. I don't remember
22 that specific detail. She may have included that

1 when she was talking to me about it, but it doesn't
2 stand out in my mind.

3 Q Did Ms. Williams indicate to you whether
4 Ms. Thomasson was already in Mr. Foster's office when
5 Ms. Williams arrived?

6 A I'm not certain if she did or not.

7 Q Do you have any understanding at all or
8 recollection?

9 A If you are asking me my impression, my
10 impression is that Ms. Thomasson was already there,
11 but I hasten to emphasize that I'm not sure if I know
12 the basis of that impression and whether it is an
13 incorrect or imprecise impression, but that is my
14 impression as I sit here.

15 Q Have you ever spoken to Ms. Thomasson about
16 her activities in Mr. Foster's office on the night of
17 his death?

18 A Yes.

19 Q And what has Ms. Thomasson said to you?

20 A She just said that she went into the office
21 and was in -- I think she said that they were looking
22 for a note. I think that she said that. This was a

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1 fairly brief conversation with Ms. Thomasson, and it
2 was some time ago, so I'm trying to separate it out
3 in my mind. I believe that in that conversation she
4 said that no documents had been removed or that she
5 did not remove any documents that night. I believe
6 that she said that.

7 Q Did she indicate to you how she was able to
8 obtain access to the counsel's office?

9 A She may have, but if she did, I don't
10 recall.

11 Q Do you have any impression as to how she
12 obtained access into the counsel's office?

13 MR. ROMATOWSKI: I'm a little troubled by
14 this expression "impression." If that wanders off
15 into a guess or speculation, it is not helpful. If
16 you have some recollection, no matter how vague,
17 express a recollection and be sure to qualify it as
18 much as you can so counsel understands the limit of
19 the recollection. Let's not clutter the record with
20 speculations, if they are no more than guess or
21 speculation. That is not helpful to us.

22 MR. GIUFFRA: Read the question back.

1 (The reporter read the record as requested.)

2 THE WITNESS: I don't have any recollection

3 of how she did.

4 BY MR. GIUFFRA:

5 Q Do you have any recollection of asking her
6 how she obtained access to the counsel's office?

7 A I don't recall asking her that specific
8 question.

9 Q Has anyone else told you how she obtained
10 access to the counsel's office on that evening?

11 A Not that I recall.

12 Q Do you have any knowledge as to why
13 Ms. Thomasson was in the counsel suite that evening?

14 A No. Let's see. I think I told you that I
15 think that she said that she was looking for a note.
16 Maybe because I have heard Mr. Nussbaum say that a
17 number of times, but I think she said that. The only
18 other thing I can add on that subject is I believe
19 she said she was beeped by Mr. Watkins.

20 Q This is Ms. Thomasson?

21 A Yes, she had been away from the White House
22 and was beeped by Mr. Watkins and informed of

1 Mr. Foster's suicide. I don't recall whether she
2 then promptly came back to the White House herself or
3 whether Mr. Watkins asked her to. I do remember that
4 she said she was beeped by Mr. Watkins.

5 Q So you don't have any understanding as to
6 whether she was asked by Mr. Watkins to return to the
7 White House?

8 A Not that I recall. As I said before, I
9 don't recall which one it was of the two things. I
10 don't recall.

11 Q Do you know whether anyone directed
12 Ms. Thomasson to return to the White House on the
13 evening of Mr. Foster's death?

14 A Not that I know of. The only thing that I
15 know, as I said, was this communication between
16 Ms. Thomasson and Mr. Watkins.

17 Q Do you know if anyone directed Ms. Williams
18 to return to the White House on the evening of
19 Mr. Foster's death?

20 A I remember, I think, Ms. Williams saying, I
21 think, that she had gotten beeped at home, maybe
22 called at home. I don't recall who she said

1 contacted her about it.

2 Q Do you have any knowledge as to whether the
3 First Lady contacted Ms. Williams on the night of
4 Mr. Foster's death?

5 A Not that I recall.

6 Q Again, when you say you don't recall, you
7 don't have any recollection whatsoever, either a
8 vague one or a clear one?

9 A That's correct. As I mentioned, I talked
10 to Ms. Williams about this, and it is possible that
11 it came up one way or the other as she was relating
12 it, but I don't have a recollection.

13 Q Do you know a woman by the name of Evelyn
14 Lieberman?

15 A Yes.

16 Q Who is Evelyn Lieberman?

17 A During this period of time she was in the
18 First Lady's office, I think in the office in the Old
19 Executive Office Building. I don't know what her
20 official title was, but she seemed to be an assistant
21 to Maggie or to the First Lady's office generally.
22 She now, I believe, works for the press secretary.

1 Q Do you know if Ms. Lieberman was in the
2 West Wing on the evening of July 20, 1993?

3 A I have no knowledge of that.

4 Q Have you ever spoken to Bill Burton about
5 events occurring on the evening of July 20, 1993?

6 A Yes.

7 Q And what do you recall about your
8 conversation with Mr. Burton?

9 A Well, this was in, I think, late December
10 1993 when this had become an issue in the press. I
11 was with Neil Eggleston, who was another associate
12 counsel at that time, and we were talking to
13 Mr. Burton, and he asked us -- he started to ask
14 questions, he said were we sure that no documents had
15 been taken out of the office on the night of July
16 20th, and we said that to our knowledge, we hadn't
17 heard that any were, and did he have any information
18 to the contrary. And we asked him a number of times,
19 and he ultimately said that no, he didn't have any
20 information, but he just wanted to make sure we were
21 sure, essentially.

22 We talked about whether his question came

1 up because of press accounts, and he wasn't sure, but
2 he was quite emphatic in the course of the
3 questioning that he did not have any knowledge to the
4 contrary of that fact.

5 MR. GIUFFRA: Off the record for a second.

6 (Discussion off the record.)

7 BY MR. GIUFFRA:

8 Q In late December 1993, did you contact
9 Mr. Burton with regard to the question of whether any
10 documents were removed from Mr. Foster's office on
11 the night of his death?

12 A I think Mr. Burton initiated contact with
13 Mr. Eggleston and me. I think he may have seen us in
14 the hallway and started talking to us and gestured us
15 into his office, something like that. We did not go
16 to him with this question. He raised it to us.

17 Q Do you have any understanding as to why he
18 raised the issue with you?

19 A No. And after -- in terms of why he raised
20 the issue in general, why it was coming up at that
21 time? Is that what your question is?

22 Q Or why he was asking you about it.

1 A I guess why he was asking me and
2 Mr. Eggleston about it was that in that period of
3 time when this had, again, become a public issue with
4 a lot of newspaper reporters, we were trying to
5 understand a little bit better some of the events
6 that had gone on because of the press attention that
7 it was getting. It was in that context and in that
8 time period that I had the conversations with
9 Ms. Williams and Ms. Thomasson.

10 So I think that Mr. Burton was aware of
11 that. So I think that's why he mentioned this to us
12 or raised this question with us.

13 Q So am I correct that in late December or in
14 December 1993, you were involved in a process by
15 which personnel from the counsel's office were
16 attempting to ascertain what had happened on the
17 evening of July 20, 1993 as it related to
18 Mr. Foster's office?

19 A Yes, that's right. It was not any kind of
20 formal factfinding or anything like that. It was
21 more like informal, relatively brief questions in
22 conversations with people, that's right, but I also

1 believe, in answer to your earlier question about
2 Mr. Burton, that Mr. Eggleston may have had some
3 discussion with some members of the senior staff of
4 the White House just generally about what was in the
5 press accounts and his understanding of the facts,
6 which might have been another reason why Mr. Burton
7 brought it up.

8 Q Do you recall anyone else that you would
9 have spoken to in connection with this attempt to
10 ascertain what had happened on the night of July 20,
11 1993 as it relates to Mr. Foster's office?

12 A Well, Joel Klein was involved as a deputy
13 counsel at that time. In fact, both of the
14 conversations that I mentioned with Ms. Williams and
15 Ms. Thomasson Mr. Klein was present at.

16 In addition to that, I, certainly at that
17 time and other times, talked to Mr. Nussbaum or heard
18 him discuss events of that night. Beyond that, I
19 believe that I talked to other people in the White
20 House who were not involved in the events of that
21 night, but with relation to the public issue that was
22 going on.

1 Q Do you recall ever speaking to Howard
2 Pastor about the events of the evening of July 20,
3 1993?

4 A No.

5 Q Do you recall ever speaking to Sylvia
6 Mathews about those events?

7 A Yes, I remember being in a conversation in
8 which Sylvia Mathews was discussing some of the
9 events of that night.

10 Q And what is your recollection of what
11 Ms. Mathews said about the events of that evening?

12 A She said that -- and this was a couple
13 of -- it would have been a couple of weeks or a few
14 weeks after the events in question, I think sometime
15 in August. In a conversation with me and Mark
16 Gearan, Mark Gearan asked her something about a burn
17 bag, and Sylvia described, I think, having obtained a
18 burn bag the night of the 20th with Gene Sperling
19 and, I think, looking at the contents of it or trying
20 to identify it as Mr. Foster's burn bag and talking
21 to Mr. Nussbaum about it. Mr. Nussbaum came in at
22 the end of this conversation with Mr. Gearan and

1 Ms. Mathews.

2 Q Do you recall whether Ms. Mathews was
3 speaking of a burn bag or a trash bag?

4 A It was a burn bag. The reason I recall
5 that is because Mr. Gearan started to ask me a
6 question about the burn bag, and I didn't know
7 anything about the burn bag, and he asked somebody to
8 get Sylvia. Sylvia came down at that point. That
9 was the first that I had heard of a burn bag.

10 Q Was this interview in Mr. Nussbaum's
11 office?

12 A This was in Mr. Gearan's office. I don't
13 know if I would characterize it as an interview.
14 This conversation was in Mr. Gearan's office.

15 Q You indicated that Mr. Nussbaum arrived?

16 A I believe he arrived toward the end of it.

17 Q Do you recall Mr. Nussbaum saying anything
18 during the course of this conversation?

19 A I think that he indicated familiarity with
20 the burn bag or with what Sylvia was relating.

21 Q Do you recall anything specifically about
22 what he might have said?

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1 A No, and I think that it was just kind of --
2 it was in the nature of kind of nodding his head as
3 though this was something that he had heard or was
4 aware of or something along those lines.

5 Q Have you ever had any conversations with
6 Mr. Nussbaum about a burn bag from Mr. Foster's
7 office?

8 A Not beyond what I have related. This came
9 up fairly briefly in Mr. Gearan's office. I don't
10 think I had any additional conversations with
11 Mr. Nussbaum about it. Now, separately, as I said
12 earlier, my notes of the July 22nd review in
13 Mr. Foster's office include some reference to a burn
14 bag in the course of that review. So that I think
15 would be included within the scope of your question.

16 Q Do you have any knowledge as to whether
17 Mr. Nussbaum gave any directions on the evening of
18 July 20, 1990 with regard to a burn bag from
19 Mr. Foster's office?

20 A You mean July 20, 1993?

21 Q Yes.

22 A I don't remember anything about

1 instructions. I remember Sylvia saying she had
2 discussed it with Bernie that night. As I said,
3 Mr. Nussbaum seemed to be familiar with it, but this
4 was all in the context of a conversation where other
5 people there seemed to know or did know a lot more
6 about it than I did.

7 Q Do you recall Sylvia saying anything about
8 the nature of her conversation with Mr. Nussbaum?

9 A I don't recall the particulars beyond what
10 I have related.

11 Q Did you ever speak to Dee Dee Myers about
12 the events that occurred on the evening of July 20,
13 1993 in the West Wing as relates to Mr. Foster's
14 office?

15 A Are you talking about anything that she did
16 or anything that other people in the White House
17 did?

18 Q Let's do first anything that she did.

19 A Not that I recall.

20 Q Do you know that she was present at the
21 West Wing on the evening of --

22 A I have no knowledge of that one way or the

1 other.

2 Q Have you ever spoken to --

3 A To supplement the record on one point about
4 the Sylvia Mathews conversation with Bernie
5 Nussbaum. As I said, they were discussing it. I do
6 remember having the sense that Sylvia had talked to
7 Mr. Nussbaum about what should be done or had kind of
8 been, in a sense bringing it to his attention for
9 guidance. As I think more about that conversation, I
10 don't remember the particulars, but that certainly is
11 a sense that I have in thinking back on that
12 conversation.

13 Q Who did Ms. Thomasson report to at the
14 White House?

15 A I believe she reported to Mr. Watkins.

16 Q Did you ever speak to Mr. Watkins about
17 events that occurred on the evening of July 20, 1993?

18 A No.

19 Q Do you have any knowledge as to whether
20 Park Police officers made a request to Mr. Watkins
21 with regard to sealing Mr. Foster's office?

22 A I don't have any knowledge of that. I have

1 a vague recollection of possibly seeing reference to
2 that in the press in the last few months, but aside
3 from any reference that I may have seen in the press,
4 no.

5 Q Other than what you have testified to
6 previously, do you recall anything further with
7 regard to conversations with Mr. Burton about events
8 on the evening of July 20, 1993?

9 A None that I recall.

10 Q Do you recall discussing events on the
11 evening of July 20, 1993 with anyone else who was
12 present in the West Wing on July 20, 1993?

13 A About their personal activities?

14 Q Exactly.

15 A Not that I recall. I'm trying to go
16 through in my mind and see if there is anybody that I
17 can think of. Not that I recall.

18 Q With regard to what Mr. Nussbaum has told
19 you with regard to looking for the note, has he
20 indicated to you he opened any file drawers in
21 Mr. Foster's office on the evening of July 20, 1993?

22 A I don't recall whether he went into that

1 level of detail with me. I recall that he said it
2 was fairly brief, but I don't recall him kind of
3 specifying exactly what he was doing.

4 Q Do you have any understanding as to the
5 extent of any examination he might have made in
6 Mr. Foster's office, other than what you have
7 testified to?

8 A Other than knowing or understanding that it
9 was fairly brief, no.

10 Q Do you have any understanding as to the
11 extent of any search of Mr. Foster's office that
12 Ms. Thomasson conducted on the evening of July 20,
13 1993?

14 A Nothing beyond what we have discussed.

15 Q Did you ever ask her whether she opened any
16 drawers in Mr. Foster's office or in his desk?

17 A Not that I recall.

18 Q And Ms. Williams, the same answer?

19 A With Ms. Williams, it is my understanding
20 that she was basically sitting on the couch during
21 this period.

22 Q And so it is your understanding that she

1 did not even look for any papers or note?

2 A Not that I'm aware of.

3 Q Do you know whether any papers of any
4 description were removed from Mr. Foster's office on
5 the night of July 20, 1993?

6 A I know of no such papers being removed on
7 the night of July 20th, 1993.

8 Q What is the basis for your response?

9 MR. ROMATOWSKI: Hold on, now.

10 MR. GIUFFRA: Strike the question. I
11 agree. Strike the question.

12 BY MR. GIUFFRA:

13 Q Have you asked Mr. Nussbaum whether he
14 removed any documents from Mr. Foster's office on the
15 night of July 20, 1993?

16 A I don't know whether I have asked him, but
17 I have heard him say that he did not remove any
18 documents on that night.

19 Q Have you asked Ms. Thomasson whether she
20 removed any documents on the night of July 20, 1993
21 from Mr. Foster's office?

22 A I believe that Joel Klein and I asked her

1 that when we talked to her at that period in December
2 '93.

3 Q And what was her answer?

4 A And I believe that she said that no
5 documents were -- the one thing I want to emphasize,
6 to be as clear as I can about my recollection, as I
7 sit here, I don't remember asking that question and
8 answering it. I do remember coming away in December
9 of '93 feeling that the people who had been in the
10 office said that no documents had been taken out that
11 night. We had the conversation with Ms. Thomasson.
12 So I feel that that must have come from that
13 conversation. I have to be clear as I'm sitting here
14 right now, I don't specifically remember asking that
15 question and getting that answer.

16 Q Is it your understanding Ms. Williams did
17 not remove any documents on the evening of July 20,
18 1993?

19 A That's my understanding, yes.

20 Q Is that based on conversation with
21 Ms. Williams?

22 A I believe that Mr. Eggleston mentioned that

1 Ms. Williams had told him of that. I believe I had a
2 conversation with Mr. Eggleston where he confirmed
3 it.

4 Q Do you have any knowledge as to whether any
5 Secret Service officers observed Ms. Williams
6 removing any documents from the counsel's suite on
7 the evening of July 20, 1993?

8 A I have no knowledge of that.

9 Q Do you have any knowledge as to whether
10 anyone observed either Mr. Nussbaum, Ms. Williams or
11 Ms. Thomasson removing any documents from the
12 counsel's suite on the evening of July 20, 1993?

13 A I have never heard anything that would
14 suggest that documents had been removed on the night
15 of July 20, 1993.

16 Q When did you arrive at the White House on
17 July 21, 1993?

18 A I think at around a quarter to 9:00 in the
19 morning, a little before nine.

20 Q Was that your normal arrival time?

21 A Yes, more or less.

22 MR. GIUFFRA: Off the record.

1 (Discussion off the record.)

2 BY MR. GIUFFRA:

3 Q What do you recall doing on the morning of
4 July 21st, 1993 as relates in any way to Mr. Foster's
5 office or the issues that we are here about?

6 A Well, I first went to my office briefly and
7 then went to the counsel's office suite. 9:00 was
8 the normal time for the counsel's office morning
9 meeting.

10 Q One quick question. Do you recall, when
11 you arrived at the counsel's office suite, whether
12 the door was open or closed to Mr. Foster's office?

13 A I don't recall.

14 Q Okay. What do you recall after arriving at
15 the counsel's suite? What else do you recall?

16 A As relates to the documents, let's see.
17 People gathered. It was around the time of the usual
18 morning meeting, and people kind of gathered very
19 grief-stricken and tearful. One point that I have to
20 make just in understanding these days and events is
21 that it was an incredibly painful tragic time for
22 everyone concerned. The overwhelming impression I

1 have from that time is the unbelievable pain that
2 everyone had. There is nothing like the shock of
3 somebody you have been working with and knowing
4 committing suicide. There was this sense of really
5 almost unbearable pain and tragedy.

6 People gathered in the counsel's office, as
7 I say, very, very grief-stricken and tearful, and
8 ultimately went into Mr. Nussbaum's office. Let's
9 see. One issue that was discussed was whether
10 Mr. Foster's office should be sealed at that point.
11 As I recall, Mr. Nussbaum brought it up. I think
12 that's right.

13 Q Did he indicate why he was bringing it up?

14 A No, not that I recall. I just remember it
15 was an issue, should this be done. I think he was
16 the one that brought it up.

17 Q It was your understanding that as of the
18 9:00 meeting, the office was not sealed?

19 A That's correct. When you referred to the
20 9:00 meeting, I have to emphasize, this was very
21 different from any other. That makes it sound like
22 it was kind of another 9:00 meeting. People were in

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1 Mr. Nussbaum's office and kind of standing around
2 grief-stricken, but it was not kind of just the
3 counsel's office morning meeting. Just to make sure
4 you understand the dynamic on that.

5 But Mr. Nussbaum did raise the issue of
6 whether it should be sealed at this time. There was
7 some discussion about whether it should be, whether
8 that was the right thing to do now.

9 Q What do you recall about that discussion?

10 A Well, I remember that I thought that it
11 should be, and Steve Neuwirth thought that it should
12 be. We were quite adamant that it seemed like an
13 appropriate thing to do.

14 Q Why did you believe that it was an
15 appropriate step to take?

16 A It just seemed like a lawyerly act of
17 prudence at that point, to be kind of appropriately
18 cautious about the office. So it just seemed like a
19 careful, lawyerly step to take.

20 Q Did you think that perhaps the office might
21 contain evidence with respect to what Mr. Foster's
22 state of mind was at the time of his death?

1 A Well, I mean, I don't remember going
2 through that exact thought process. But I just
3 remember having a reaction that it seemed like an
4 appropriate exercise of caution to do, just to seal
5 the office at that time.

6 Q By "seal the office," what did you
7 understand the term "seal" to mean?

8 A To, I think, either prevent access or have
9 a careful record of access of anybody who went in and
10 out of the office at that point.

11 Q Do you recall any other views that were
12 expressed at the meeting with regard to sealing the
13 office?

14 A Well, I remember that the subject was
15 tossed around a little bit. Some people -- or at
16 least a question was raised was it an overreaction,
17 would it seem strange, would it be strange to somehow
18 have this subset of the counsel's office suite all of
19 a sudden blocked off, was it necessary to do that.

20 It was kind of an airing of the issue.
21 Ultimately there was a consensus that it was
22 appropriate to seal it.

1 Q You testified that you and Mr. Neuwirth
2 were strong advocates of sealing the office. Who
3 raised the contrary considerations?

4 A I don't recall. The other thing, to the
5 best of my recollection, it is not as though somebody
6 firmly stated no, we shouldn't do it. People were
7 really tossing out concerns and questions really in
8 the process of working through the issue.

9 Q Do you have any recollection of anything
10 Mr. Nussbaum said during the course of that
11 discussion with regard to whether Mr. Foster's office
12 should be sealed?

13 A No, I don't. I remember him raising the
14 issue. I remember a little bit of discussion, as I
15 indicated. And then I remember there was a consensus
16 that it was a good idea to seal it at that time.

17 Q Do you have any recollection as to who
18 presented the view that you might not want to seal
19 off Mr. Foster's office?

20 A I don't recall.

21 Q Do you recall anything else occurring
22 during that meeting -- strike that.

1 Was there any discussion during that
2 meeting of the Park Police investigation into
3 Mr. Foster's death?

4 A Yes. Just to finish the point we were just
5 talking about. After that decision was made, it was
6 then decided that somebody would call the Secret
7 Service and try to get a guard posted at the door as
8 soon as possible. That was the outcome of the
9 decision. And somebody did that. I don't know who
10 placed the call, but somebody did that.

11 Q Do you remember when the guard was posted
12 at Mr. Foster's office?

13 A I think the guard came at around 10:00.

14 Q During the period when the guard was
15 posted -- from the period, from the time when the
16 guard was posted at Mr. Foster's office, could
17 persons enter Mr. Foster's office?

18 A Well, the guard was there. Somebody could
19 enter if they walked past the guard and into the
20 room, but there was a guard there at all times.

21 Q Do you know whether persons could remove
22 any kind of material from Mr. Foster's office during

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1 the period when the guard was posted at the door?

2 A I have no knowledge of anybody doing that.
3 When you ask me could somebody, as I say, there was a
4 guard standing there, and the door didn't have a lock
5 on it at that point is my understanding.

6 MR. ROMATOWSKI: With one exception.

7 THE WITNESS: Oh, oh, that's right. I
8 appreciate that. He was saying -- did he say
9 papers?

10 MR. ROMATOWSKI: Did anyone remove any
11 material.

12 THE WITNESS: Material. The one exception
13 that Mr. Romatowski is alluding to is at one point in
14 the morning, Bernie Nussbaum went in to get -- there
15 was a picture on a bookshelf of Mr. Foster's
16 kindergarten class with the President and Mack
17 McLarty in the picture. Bernie went into the office
18 to get the picture. The President and Mack were in
19 the counsel's office at that time and Bernie went in
20 and got the picture and gave it to them or showed it
21 to them.

22 BY MR. GIUFFRA:

1 Q Do you know whether any direction was given
2 to the guard that no papers could be removed from
3 Mr. Foster's office?

4 A I have no knowledge of such an
5 instruction.

6 Q Do you know whether the guard maintained a
7 log as to persons who entered Mr. Foster's office?

8 A It is my understanding, from after the
9 fact, that a log was maintained. I don't believe
10 that I knew that at the time.

11 Q Now, directing your attention to the
12 question of Park Police investigation into
13 Mr. Foster's death, do you recall any discussion at
14 the 9:00 a.m. meeting in the counsel's office of that
15 investigation?

16 A Yes, in the sense that I remember
17 Mr. Nussbaum saying two things about the Park
18 Police. First of all, I think he said that there
19 were some people from the Park Police who were
20 present, who were downstairs, and there was an issue
21 about --

22 Q Let me just ask one quick question. With

1 regard to the Park Police who were downstairs, did he
2 indicate to you that he was expecting them to be
3 there or whether they were there was sort of a
4 surprise?

5 A I don't remember him indicating that one
6 way or the other.

7 Q I'm sorry. Go ahead.

8 A And there was an issue about them
9 proceeding. At this point, two years later, I don't
10 remember exactly whether it was that they wanted to
11 go into Mr. Foster's office or just kind of proceed
12 more generally. I'm not sure exactly what the
13 request was that was on the table. Mr. Nussbaum may
14 have referred to it with specificity, but I don't
15 remember exactly what it was.

16 In any case, they were down there and there
17 was an issue about further proceedings involving
18 them. An issue that was discussed was whether
19 Mr. Nussbaum should call a high-ranking official at
20 the Justice Department and possibly at the Interior
21 Department to make sure that the investigation was
22 proceeding the way that they wanted it to out of

1 deference to the investigation. It was well
2 established in the White House at that point that if
3 there were contacts about a particular investigation,
4 it should be between the White House counsel and very
5 high-ranking officials in the Justice Department,
6 such as the deputy attorney general.

7 So out of deference to the investigation, I
8 think Mr. Nussbaum was raising the question about
9 whether he should call Deputy Attorney General
10 Heymann and possibly a high-ranking official at the
11 Interior Department and make sure that the
12 investigation was proceeding in the manner that they
13 wanted. There might be jurisdictional issues. The
14 Park Police were showing up to inquire into the death
15 or suicide of a high-ranking official. It was a
16 matter of touching base with someone who was a
17 high-ranking member of the Justice Department and
18 possibly the Interior Department. It was agreed that
19 would be appropriate and that Mr. Nussbaum would call
20 Deputy Attorney General Heymann and touch base with
21 him and possibly a high-ranking official at the
22 Interior Department and just see how they wanted to

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1 proceed on this matter.

2 Q Do you recall any discussion of any kind as
3 to whether the Park Police might be in over their
4 heads with regard to this investigation?

5 A I don't remember those words or that
6 sentiment. I do remember in the time period -- and I
7 don't know whether it was specifically at that
8 time -- there was a question about as proper
9 procedure, were the Park Police the people who were
10 beginning to be involved, were the FBI, had they
11 worked that out among themselves.

12 Q Do you recall any discussion as to the
13 ability of the Park Police to conduct an
14 investigation into Mr. Foster's death?

15 A I don't remember it coming up as a question
16 of ability. I remember it coming up as a question of
17 procedure and the desires of the departments and just
18 what would be usual for them in these circumstances
19 and how they wanted to proceed.

20 Q Do you recall anything more about that
21 meeting, the 9:00 meeting on the 21st?

22 A The only other thing that I recall, which

1 is the second thing that relates to the Park Police,
2 is that Mr. Nussbaum said that some people from the
3 Park Police were downstairs to brief them on the
4 circumstances of finding Mr. Foster's body and the
5 circumstances of his death. I remember Mr. Nussbaum
6 leaving to attend that briefing.

7 Q Do you have any knowledge as to whether
8 anyone entered Mr. Foster's office on July 21st prior
9 to the posting of the guard at Mr. Foster's office?

10 A Yes.

11 Q And could you please state what your
12 knowledge is.

13 A I was told that morning that Betsy Pond,
14 Mr. Nussbaum's secretary, had gone in to straighten
15 some papers or just to straighten up a little bit in
16 the office.

17 Q Who told you this information?

18 A I don't recall. It may have come up in the
19 discussion with all of the people in Mr. Nussbaum's
20 office. I might have learned of it beforehand right
21 on the way into Mr. Nussbaum's office. I'm not
22 sure.

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1 Q Did you ever speak to Ms. Pond about her
2 activities on the morning of July 21st, 1993 as it
3 relates to Mr. Foster's office?

4 A Well, I was present with her when she was
5 interviewed by the Park Police and the FBI and that
6 subject came up.

7 Q Other than in that interview, did you have
8 any discussions with Ms. Pond about her actions on
9 the morning of July 21st?

10 A No.

11 MR. GIUFFRA: Off the record.

12 (Discussion off the record.)

13 (Whereupon, at 12:25 p.m., the deposition
14 was recessed, to be reconvened at 1:35 p.m. this same
15 day.)
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1 AFTERNOON SESSION (1:35 p.m.)

2 Whereupon,

3 CLIFFORD M. SLOAN

4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as follows:

6 BY MR. GIUFFRA:

7 Q Did you ever speak to Ms. Pond about why
8 she went into Mr. Foster's office?

9 A Well, I heard her say in the interview with
10 the Park Police and the FBI -- I believe that in that
11 context she said she went in because she thought she
12 should straighten some things up. I don't know if I
13 ever heard her say it outside of that context. I
14 believe I recall hearing her say it in that context.

15 Q Was it your understanding that she had
16 straightened papers that were on Mr. Foster's desk?

17 A I think it was the coffee table. I'm not
18 certain whether it was limited to the coffee table.
19 My recollection is it was associated with the coffee
20 table.

21 Q Was it your understanding that the
22 documents were in some disarray on the coffee table

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1 and then she straightened them?

2 A I don't know specifics. I don't know if
3 they were documents. I don't know what she
4 straightened on the coffee table. It was just that
5 she went in and straightened things and, as I say, I
6 associate it with the coffee table.

7 Q Do you know whether she spoke to
8 Mr. Nussbaum about straightening documents in
9 Mr. Foster's office?

10 A What time period are we talking about?

11 Q Strike the question.

12 Do you know whether Mr. Nussbaum directed
13 her to straighten any documents in Mr. Foster's
14 office?

15 A It was my understanding that she did it on
16 her own when she came in in the morning.

17 Q After she straightened the documents in
18 Mr. Foster's office, do you know whether Mr. Nussbaum
19 spoke to Ms. Pond about her having done that?

20 A I have a vague recollection, certainly,
21 that Mr. Nussbaum was aware that she had done it, and
22 I think it was my assumption that they had talked

1 about it, but I don't remember anything in particular
2 about it.

3 Q Do you have any recollection as to whether
4 Mr. Nussbaum was, in any way, critical of the fact
5 that Ms. Pond had straightened the documents that
6 were on Mr. Foster's coffee table?

7 A I think I remember Mr. Nussbaum mentioning
8 to me that it would have been better if she hadn't
9 done that.

10 Q Did he say anything more?

11 A No, it was just -- he thought it would have
12 been better if she hadn't done that.

13 Q Do you have any understanding as to why he
14 said it would have been better if she hadn't done it?

15 A He didn't elaborate.

16 Q Do you have any understanding as to what he
17 meant?

18 A I would be speculating.

19 Q Do you know anything about the matter of
20 whether Mr. Craig Livingstone carried a box in the
21 West Wing on the morning of July 21st?

22 A Let me tell you what I know about that.

1 The first that I heard of that issue was that
2 Mr. Livingstone called me sometime in I think
3 probably May or June of 1994.

4 Q Do you know why he called?

5 A What he said to me -- I know what he said
6 to me on the call. What he said to me on the call
7 was that he had been talking to the independent
8 counsel and, I think he said that they were asking
9 him about whether he carried a box out on the morning
10 of the 21st. I'm telling you this a little bit out
11 of sequence.

12 I think the first thing he asked me was
13 when I first started working in the office. There
14 was a question about whether they had carried
15 something out, and he thought that they were making a
16 mistake or that somebody had made a mistake and was
17 confusing dates and there might have been another
18 time when he had carried out a box with me a few
19 weeks before. He asked if I remembered that. I said
20 no, I didn't remember that. That was basically the
21 essence of the conversation, as I recall it.

22 Q Did Mr. Livingstone indicate to you that he

1 did not, in fact, carry a box out of the West Wing on
2 the 21st?

3 A Clearly the thrust of what he was saying --
4 I don't remember his exact words -- was he thought
5 they were mistaken and he was trying to figure out
6 how this mistaken impression had developed.

7 Q Did you have any other conversations with
8 Mr. Livingstone about the claim that he had removed a
9 box from the West Wing on the morning of the 21st?

10 A No.

11 Q Did you have discussions with anyone else
12 about the claim that Mr. Livingstone had removed a
13 box from the West Wing on the 21st?

14 A No, other than I think that considerably
15 later I heard incidental references to the fact that
16 this had become an issue, but nothing substantive.

17 Q You were not present, I take it, during the
18 meeting that Mr. Nussbaum had with the Park Police on
19 the morning of the 21st; is that correct?

20 A I was not present at any meeting that
21 Mr. Nussbaum had with the Park Police on the morning
22 of the 21st, that's correct.

1 Q Did Mr. Nussbaum report back to you on what
2 had occurred in this meeting with the Park Police on
3 the morning of the 21st?

4 A Not that I recall.

5 Q Did you have any conversations, other than
6 those you have testified to so far with Mr. Nussbaum,
7 about the Park Police's investigation on the 21st?

8 A Well, there was a meeting later in the day
9 on the 21st, around 4:00, in Mr. Nussbaum's office
10 that involved the Park Police, the Justice
11 Department, the people from the White House.

12 Q Did you have any other involvement in
13 anything bearing on the handling of documents in
14 Mr. Foster's office between the time of the -- for
15 lack of a better word -- 9:00 a.m. counsel meeting
16 and this 4:00 meeting?

17 A In that I -- let me say -- let me try to go
18 through anything that comes to mind. First of all,
19 sometime in that period I learned that there had been
20 a trash bag that had been intercepted from a cleaning
21 lady the night before, was my understanding, and that
22 that trash bag was in Roy Neel's office.

1 Q Do you recall how you learned of this trash
2 bag?

3 A I don't remember exactly.

4 Q Did Mr. Nussbaum mention it to you?

5 A He might have mentioned it to me. I don't
6 remember exactly, but he might have.

7 Q Do you know if Ms. Mathews might have
8 mentioned it to you?

9 A No, I didn't have any conversations with
10 Ms. Mathews during that period of time.

11 Q Most of the direction you were receiving as
12 relates to this matter was from Mr. Nussbaum?

13 A Yes, that's correct.

14 Q Your impression would be that it would
15 probably be Mr. Nussbaum?

16 A It may well have been. It wouldn't
17 surprise me if it was. It is hard to put a
18 percentage on it. It may well have been
19 Mr. Nussbaum.

20 Q Do you know whether he contacted you by
21 telephone or whether you were in the counsel's suite
22 in the west wing?

1 A When what happened?

2 Q Strike that whole question.

3 Do you recall approximately what time it
4 was that you learned about this trash bag that had
5 been placed in Mr. Neel's office?

6 A No, I just remember that to the best of my
7 recollection it was by the time of the meeting with
8 the Park Police and the Justice Department, because I
9 believe that it was brought up at that meeting. So
10 it would have been sometime prior to that.

11 Q Did you take any action with regard to this
12 trash bag?

13 A Before the meeting?

14 Q Yes.

15 A No.

16 Q But you learned of the trash bag's
17 existence prior to the meeting?

18 A That's correct.

19 Q Did you take any -- and you did not take
20 any action? You just learned of the existence?

21 A That's correct.

22 Q What did you learn about the trash bag?

1 A That it was in Mr. Neel's office and that
2 it had been intercepted from a cleaning woman the
3 night before and that it was from Mr. Foster's office
4 was my understanding.

5 Q Was it your understanding that this was a
6 trash bag or a burn bag?

7 A My understanding was that it was a trash
8 bag.

9 Q And there is a difference between a trash
10 bag and a burn bag in terms of White House
11 procedures?

12 A Yes, that's correct.

13 Q Could you state briefly for the record the
14 difference.

15 A Well, a trash bag tends to be a plastic bag
16 inside a trash can which is used for ordinary trash.
17 A burn bag is a big brown bag which is collected and
18 I believe that it is burned. I have always assumed
19 that it is burned. That would be logical. That
20 tends to relate to if there are -- I think of it as
21 if there are work-related items, maybe drafts or
22 something that you don't need to retain, that would

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1 go in the burn bag.

2 Q Were there any procedures for what types of
3 documents would go into the burn bag?

4 A I don't remember being advised of specific
5 procedures with respect to that.

6 Q Other than learning about the existence of
7 this trash bag, did you have any other conversations
8 with anyone between the 9:00 a.m. meeting and the
9 4:00 meeting on the 21st relating to the matters that
10 we are here today about?

11 A Let's see. One other item that comes to
12 mind, and I'm not sure if it is in that exact time
13 period -- let me explain what it is. At some point I
14 became aware of the fact that there was a
15 time-sensitive, trust-related document that was in
16 Mr. Foster's office that needed to be signed or
17 executed by the first family and that there was a
18 sensitivity in terms of -- that that had been sent to
19 Mr. Foster and it was believed that it was in
20 Mr. Foster's office and that there was a time
21 sensitivity with respect to it. I don't remember
22 when I first learned of that, whether I learned of

1 that in the period before the 4:00 meeting on the
2 21st, but somewhere on the 21st or 22nd I learned of
3 that.

4 Q How did you learn about this trust-related
5 document?

6 A I think it was in conversations with
7 Mr. Nussbaum and Mr. Neuwirth.

8 Q What did they say to you?

9 A They said that, as I recall, there was a
10 document related to a trust that either the President
11 or the First Lady had to sign or execute, and I think
12 it had been Federal Expressed to Mr. Foster and that
13 it was necessary to execute that fairly promptly.

14 Q Was this relating to a blind trust that the
15 President or the First Lady might have?

16 A I believe so.

17 Q And did you ever take any action with
18 regard to this trust-related document?

19 A No, I learned after the review on the 22nd
20 that it had been -- that the document had been found
21 and it was going to be signed or executed, but I
22 wasn't involved in that directly myself.

1 Q When was the document found?

2 A My understanding was that it was found
3 either in the course of the review on the 22nd or
4 afterwards.

5 Q Prior to this 4:00 meeting, did you learn
6 anything from anyone with regard to the progress of
7 the Park Police's investigation into Mr. Foster's
8 death?

9 A No, not that I recall. One thing that I
10 think might be helpful in terms of understanding the
11 context is to explain a little bit what was going on
12 during the day on the 21st.

13 Q Sure.

14 A It is in the wake of this tragic news, as I
15 was mentioning before, late the night before. In the
16 morning on the 21st, at one point the President came
17 over to the counsel's office and was consoling people
18 and reminiscing about Vince Foster. At noon on that
19 day, the President, Mr. Nussbaum and Mr. McLarty
20 addressed the entire White House staff in a room in
21 the Old Executive Office Building. It was also a
22 very sad and tearful occasion.

1 Later that afternoon, Mr. Gearan and
2 Mr. McLarty went before the press to try to answer
3 questions or give information as was known to the
4 White House, and there was some attempt to try to get
5 information before that press briefing.

6 Q Did you have any role in trying to
7 ascertain information for purposes of that press
8 briefing?

9 A Let me get back to that. I would like to
10 just finish the point that I was making.

11 Q Okay.

12 A As I was saying, people were gathered in
13 the counsel's office initially at around 9:00, and
14 that lasted for some time. We are talking about a
15 period of about six hours or so between that meeting
16 and the time of the meeting with the Park Police and
17 the other law enforcement people at 4:00. The reason
18 I relate this is that there was a lot going on and a
19 lot of it at a time of very great sadness and pain.
20 There was a lot going on in that time period. I
21 think it is important for you to understand that
22 context.

1 To get back to your question about
2 ascertaining information, the only thing that I
3 recall is that Ricki Seidman, who was then, I think,
4 counselor to the chief of staff, at one point came up
5 to the counsel's office and was asking people just
6 what they knew about when they had last seen
7 Mr. Foster and what they knew of his last movements
8 to get information for the press briefing. That's
9 the only activity that I was involved in in
10 connection with preparation for that public
11 statement.

12 Q Were you aware of any dissatisfaction on
13 the part of the Park Police with regard to the
14 progress of their investigation?

15 A Not at that time.

16 Q Do you recall seeing Maggie Williams in the
17 counsel's suite on July 21st?

18 A No, not that I recall.

19 Q Do you recall seeing Ms. Thomasson in the
20 counsel's suite on July 21st?

21 A No.

22 Q Directing your attention to the 4:00

1 meeting, could you please describe who was present at
2 that meeting.

3 A Mr. Nussbaum, Mr. Neuwirth, myself. Then
4 from the Justice Department, David Margolis and Roger
5 Adams. Two FBI agents.

6 Q Do you recall the names?

7 A Well, I have a list of some of the people
8 from the next day, and I have a list that may relate
9 to it. I think that -- Scott Salter, I know, is an
10 FBI agent who was there the next day. I don't
11 remember whether he was there on the 21st. He
12 probably was. I don't remember the name of the other
13 individual. Two people from the Park Police. I
14 think there were two people from the Secret Service
15 who were there. I think that is it.

16 Q Who called you to this meeting?

17 A I don't remember the circumstances.
18 Mr. Nussbaum would have told me about it, and that's
19 why I would have been there. I don't remember him
20 telling me about it.

21 Q Do you have an understanding as to why you
22 and Mr. Neuwirth were brought into this process?

1 A No. I mean, it certainly wasn't unusual
2 for Mr. Nussbaum to involve associate counsel in
3 matters that he was working on. As I mentioned
4 before, both Mr. Neuwirth and I had probably more
5 varied portfolios than a number of people in the
6 office and were sometimes subject to --

7 Q Were you sort of the generalists?

8 A I guess that is one way to put it. It may
9 be because he thought that we both had relevant
10 litigation experience. I don't know exactly the
11 reasons why, but it didn't seem unusual.

12 Q And just in your own words, what transpired
13 at this 4:00 meeting on the 21st?

14 A Let's see. I can go through the different
15 items that I remember coming up. I remember that
16 Mr. Nussbaum explained that the office had been
17 sealed at about 10:00 that morning, and I remember
18 that I think it was Mr. Margolis or somebody who was
19 there said that that was good that that had been
20 done, that a lot of people might not have thought of
21 doing that and that it was good that it had been
22 done.

1 We related in the course of that that
2 Mr. Nussbaum had been in the office to get the
3 picture, the kindergarten picture that I described
4 before.

5 I believe we brought up the fact that there
6 was a bag of trash and suggested that we would put it
7 in the office, and they thought that that was
8 appropriate. It was discussed that we were going to
9 address the subject of Mr. Foster's office the next
10 day. I don't remember the exact words or how that
11 was left.

12 Q This is the review process?

13 A Yes, that that was something that was going
14 to be done the next day. It was discussed that they
15 wanted to interview the secretaries the next
16 morning.

17 Bill Burton, I don't know if he was there
18 for the whole meeting or if he was in and out or just
19 came at the end. I don't really remember. One
20 subject that came up, and I don't remember if Bill
21 brought it up directly or if I brought it up after
22 Bill brought it up to me, was that if there was a way

1 to return Mr. Foster's personal effects to his widow
2 that night, they would like to do so. I think it was
3 explained that the President was going to visit
4 Mrs. Foster that night and if there was a way that he
5 could return the personal effects, if they were done
6 with it and consistent with their investigation, we
7 would appreciate it if we could get it in time for
8 the President to return it to Mrs. Foster that
9 night. The Park Police individual said that they
10 thought that would not be a problem and they would
11 try to make sure that that happened.

12 Those are the subjects that come to mind
13 that were discussed at that meeting.

14 Q Let's sort of go through them. With regard
15 to the sealing of the office, was any question raised
16 by anyone as to why the office had not been sealed
17 until 10:00 a.m. on the morning of July 21st?

18 A Not that I recall. On the contrary, the
19 only comment that I remember is somebody saying
20 positively that it was good that it had been sealed.

21 Q Was any decision made with regard to the
22 trash?

1 A Yes. As I related, it was discussed that
2 we would put the trash bag back into the office, and
3 it was agreed that that was the appropriate thing to
4 do.

5 Q After the meeting, were you the person who
6 collected the trash?

7 A I was the person who went and got the trash
8 bag and then placed it in Mr. Foster's office.

9 Q Just because there has been some
10 uncertainty on this particular point, is it your
11 testimony that you took the trash and put it inside
12 Mr. Foster's office or inside the counsel's suite?

13 A I'm delighted to address this in detail.
14 What I recall is that after the meeting, consistent
15 with what had been discussed in the meeting, I walked
16 to Mr. Neel's office. He pointed to a bag in his
17 office.

18 Q Do you recall where the bag was located?

19 A I think it was on a couch in his office,
20 actually. I picked up the bag, I took it upstairs
21 into the counsel's office suite. I said to the
22 Secret Service agent who was standing right there I'm

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1 going to put this in the office, I'm just going to
2 put it down right here. He nodded or said "fine." I
3 went in, took a piece of paper and wrote on it "bag
4 of trash placed here 6:30 p.m. July 21st, 1993" and
5 signed my name. I attached that piece of paper to
6 the bag, walked out. The entire process probably
7 took about 10 seconds.

8 Q Do you recall where you put the trash?

9 A I put it a little ways into the office,
10 probably kind of near the coffee table and couch in
11 his office, which was kind of the first thing, the
12 first item in the office from the door. It was very
13 close to the entrance.

14 Q With regard to the process that would be
15 used to review the documents in Mr. Foster's office,
16 what specifically do you recall about that
17 discussion?

18 A I actually don't really recall what was
19 discussed or what was left kind of unresolved at that
20 time. I tend to think of that in my mind, those were
21 kind of preliminaries that got overtaken by events
22 the next day. I don't recall the details of what was

1 discussed or how it was left on the 21st.

2 Q Do you have any recollection at that
3 meeting on the 21st of any discussion to the effect
4 that Department of Justice officials would review the
5 documents in Mr. Foster's office?

6 A I'm sorry. Could you restate the
7 question?

8 MR. GIUFFRA: Read it back.

9 (The reporter read the record as requested.)

10 THE WITNESS: I don't recall the details of
11 the discussion. I don't recall an agreement along
12 those lines.

13 BY MR. GIUFFRA:

14 Q Do you recall any discussion of any type
15 relating to the procedure that would be used to
16 review the documents in Mr. Foster's office?

17 A I don't recall the particulars of that
18 discussion. As I say, it stays in my mind just as
19 kind of preliminaries. There may have been some
20 discussion. It may have been that some things were
21 kind of left unsaid and different people had
22 different impressions. What stays in my mind were

1 those were preliminaries overtaken by events the next
2 day.

3 Q Do you recall the Park Police officers
4 indicating in any way that they were dissatisfied
5 with the degree of White House cooperation with
6 regard to their investigation?

7 A No.

8 Q So it would be your testimony that they
9 didn't say anything about how they wanted to get into
10 the office and look at documents on the 21st?

11 A That they didn't say anything in the
12 meeting?

13 Q Yes.

14 A Well, I don't recall the details of the
15 discussion beyond what I have said. If they had made
16 that request earlier that day, they might have
17 referred to it. As I said, I don't remember the
18 details. What I do recall is that I did not have a
19 sense of people complaining about their treatment at
20 that time.

21 Q So your testimony would be that as far as
22 you know, the Park Police officials were satisfied

1 with the degree of White House cooperation that they
2 had received at least at that meeting?

3 A I guess the way that I would characterize
4 it is that that meeting -- after a very busy,
5 extremely difficult day, that meeting was a very
6 businesslike meeting in which everybody just seemed
7 to be discussing the matters that needed to be
8 addressed in a very businesslike fashion.

9 Q Do you recall anyone from the Park Police
10 asking if they could interview the secretaries on the
11 21st?

12 A Asking --

13 Q At this meeting.

14 A It was arranged at that meeting that they
15 would do it on the 22nd.

16 Q Was there any dissatisfaction expressed by
17 the Park Police with regard to the delay in when they
18 would be able to interview the secretaries?

19 A Not that I recall.

20 Q Was any -- as far as you can recall at that
21 meeting, was any dissatisfaction expressed by anyone
22 from the Justice Department with regard to the White

1 House's cooperation with regard to the investigation?

2 A Not that I recall.

3 Q Do you have any general recollection of any
4 dissatisfaction by anyone at that meeting with regard
5 to anything?

6 A When you say "dissatisfaction," I'm
7 interpreting that as meaning complaining about
8 issues. There was discussion about what needed to be
9 done and how to go about that, and whether there were
10 references to discussions during the day I'm not
11 sure. I don't remember the details, but I didn't
12 come away from it with a feeling that people were
13 expressing dissatisfaction or complaints about what
14 occurred.

15 Q How about just frustration?

16 A I don't recall that being expressed in the
17 meeting.

18 Q Do you recall anything more about this
19 meeting other than what you have testified to here
20 today?

21 A No, there is nothing else that I recall.

22 Q Do you recall whether any Park Police

1 officer questioned Mr. Nussbaum with regard to events
2 that occurred in the counsel's office on the night of
3 July 20, 1993?

4 MR. KRAVITZ: Do you mean during that
5 meeting?

6 MR. GIUFFRA: Yes.

7 THE WITNESS: I don't remember him being
8 questioned as such. I guess one other thing,
9 although I don't remember the details, I do remember
10 in a general way Mr. Nussbaum was trying to explain
11 what had been going on at the White House as
12 background, but I don't remember the details of that
13 discussion.

14 BY MR. GIUFFRA:

15 Q Do you recall any discussion on July 21st
16 between Mr. Nussbaum and any law enforcement
17 officials with regard to events that occurred at the
18 White House on the night of July 20, 1993?

19 A Not that I recall.

20 Q So it would be your testimony you don't
21 recall Mr. Nussbaum indicating to the Park Police
22 that he, Ms. Williams and Ms. Thomasson had entered

1 Mr. Foster's office on the night of the 20th?

2 A I don't have a recollection of that coming
3 up at that meeting. Now, it is possible that it did
4 and I don't recall it, but I don't have a
5 recollection of it coming up at that meeting.

6 Q Was there a later interview between
7 Mr. Nussbaum and Park Police officials on the 21st
8 that you can recall?

9 A Not that I am aware of.

10 Q Did Mr. -- after this meeting, what do you
11 recall happening?

12 A Let's see. First of all, with respect to
13 the personal effects, I remember that, at some
14 point -- and there may have been further
15 communications with the Park Police, but at some
16 point they arranged to bring the personal effects
17 over to the White House. They brought them, a rough
18 estimate would be at around 7:30. I met them in the
19 driveway of the White House, in the driveway between
20 the West Wing and the Old Executive Office Building
21 and received the personal effects, signed for them
22 and gave them to Bill Burton.

1 MR. KRAVITZ: I'm sorry. You also
2 testified earlier about what you did with the trash
3 after the meeting.

4 THE WITNESS: Oh. Right. I appreciate
5 that. And that probably was earlier in time. I
6 think that was at around 6:30. I think that was
7 right after the meeting, as I testified.

8 BY MR. GIUFFRA:

9 Q The personal effects you are talking about
10 are the personal effects that were in Mr. Foster's
11 possession at the time he died?

12 A That's my understanding, that's right.

13 Q These are not personal effects -- you
14 didn't take any personal effects from Mr. Foster's
15 office and return them to the family?

16 A No. My understanding is these are ones
17 that were in Mr. Foster's possession at the time of
18 his death.

19 Q Did Mr. Nussbaum advise you of any
20 telephone conversation that he had with Mr. Heymann
21 on the 21st?

22 A Not that I recall.

1 Q Any phone conversations that he had with
2 Attorney General Reno?

3 A On the 21st, not that I recall.

4 Q Any conversations that he had with
5 Mr. Margolis?

6 A Not that I recall.

7 Q Did he advise you of any conversations that
8 he had with the First Lady on the 21st?

9 A Not that I recall.

10 Q Do you know who Carolyn Huber is?

11 A Yes.

12 Q Who is Carolyn Huber?

13 A She was a person -- she is a person -- and
14 I'm not sure of her exact title -- who was on the
15 White House staff, and I tend to think of her as
16 having responsibilities with respect to the
17 residence, but I may be incorrect about that. I
18 didn't know her well or work with her, but I
19 certainly know the name.

20 Q Was it your understanding that Ms. Huber
21 had any ongoing relationship with the counsel's
22 office in this time period?

- 1 A Not that I'm aware of.
- 2 Q Do you know whether Mr. Nussbaum tried to
- 3 contact Ms. Huber at approximately 6:30 on the 21st?
- 4 A Not that I know of. When you are asking
- 5 about contacts with the counsel's office and
- 6 Ms. Huber in this time period, there is a reference
- 7 in December 1993 when I was talking to Maggie
- 8 Williams about documents that she had gotten after
- 9 the review, and there is some reference to Carolyn
- 10 Huber in connection with that, and I believe that
- 11 Ms. Williams was assisted by Tom Castleton of the
- 12 White House counsel's office. That would be the only
- 13 thing that comes to mind as a contact between the
- 14 counsel's office and Ms. Huber in that time period.
- 15 Q You don't recall any mention of Ms. Huber
- 16 on the 21st?
- 17 A No.
- 18 Q You have no knowledge as to Mr. Nussbaum
- 19 ever mentioning Ms. Huber on the 21st?
- 20 A That's correct.
- 21 Q Do you have any knowledge of any telephone
- 22 conversations or other conversations between

- 1 Mr. Nussbaum and Ms. Williams on the 21st?
- 2 A No.
- 3 Q Do you have any knowledge of any kind with
- 4 regard to whether the First Lady ever spoke to
- 5 Mr. Nussbaum at any time with regard to the documents
- 6 that were in Mr. Foster's office?
- 7 A I have no knowledge of that.
- 8 Q Did Mr. Nussbaum ever indicate -- read that
- 9 last question back, please.
- 10 (The reporter read the record as requested.)
- 11 MR. GIUFFRA: And the answer.
- 12 (The reporter read the record as requested.)
- 13 BY MR. GIUFFRA:
- 14 Q Do you have any knowledge as to whether
- 15 anyone from the First Lady's office spoke to anyone
- 16 in the counsel's office on the 21st with regard to
- 17 documents that were in Mr. Foster's office?
- 18 A Other than whatever was involved with
- 19 respect to the trust document, I don't know the
- 20 details of where that came from, there is nothing
- 21 else that comes to mind.
- 22 Q Did you have any other conversations with

1 anyone on the 21st other than those you have
2 testified to so far that relate to the handling of
3 the papers in Mr. Foster's office on the 21st?

4 A The only additional conversation that comes
5 to mind is that Steve Neuwirth and I met with the
6 secretaries that night to talk about their upcoming
7 interview the next morning.

8 Q Did anyone direct you to have that meeting?

9 A I think Mr. Nussbaum suggested that we do
10 that.

11 Q What did he say to you?

12 A He said just to talk to them. I don't
13 remember the details. I think to prepare them for
14 the interviews. It was all in the context of trying
15 to facilitate the inquiry into this matter.

16 Q Just briefly, could you describe for the
17 record the conversation that you and Mr. Neuwirth had
18 with the secretaries.

19 A Yes, we told them, first of all, that the
20 Park Police wanted to interview them the next morning
21 and we were scheduling the interviews for the next
22 morning. We explained to them that it was in

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1 connection with an official inquiry. We told them
2 that they should be truthful and forthright in their
3 answers to the questions. I think we said that they
4 would be likely to just ask questions about what they
5 knew of Mr. Foster in the period before his death and
6 whether there was anything unusual and that kind of
7 thing.

8 Deborah Gorham, who was Mr. Foster's
9 personal secretary, mentioned that a number of --
10 that people in Mr. Foster's family had been calling
11 quite a bit in the week or two before his death, and
12 this was the first time that we had heard that. She
13 may have also mentioned something about financial
14 matters in connection with Mr. Foster. I don't
15 remember the details of that. I also don't remember
16 whether it was speculation on her part or what, but I
17 think that there was a reference there.

18 Q Do you recall anything more specifically
19 about those financial matters?

20 A No.

21 Q Do you recall anything else more that
22 happened on the 21st that is relevant to our inquiry

1 into the Foster paper handling issue?

2 A The only other thing I remember is that at
3 around 7:00 that night, a lock was put on the door so
4 that the Secret Service no longer had to be posted
5 there. A lock was put on the door to Mr. Foster's
6 office. It was my understanding that the office was
7 then locked and the Secret Service had the key to the
8 lock.

9 Q As far as you know, was the Secret Service
10 agent posted, or officer posted from 7:00 on the 21st
11 until the time of the review the next day on the
12 22nd? After this lock was put on the door to
13 Mr. Foster's office, did the office continue to be
14 guarded by a live human being?

15 A No.

16 Q Other than the key being in the possession
17 of the Secret Service, do you know whether anyone
18 else had the key to that office?

19 A It was my understanding that nobody else
20 did.

21 Q Do you know whether Mr. Nussbaum had the
22 key to the office?

1 A To my knowledge, he didn't.

2 Q Have you ever learned whether Mr. Nussbaum
3 did have the key to that office?

4 A I have never learned that he did. I have
5 never had anything that would change that
6 understanding that I had at the time.

7 Q Do you know why the decision was made to
8 put a lock on the door instead of having a live human
9 being guarding?

10 A Yes, I think it was felt it wasn't the best
11 allocation of resources for the Secret Service to
12 have somebody standing in front of a door full time.

13 Q Directing your attention to July 22nd, what
14 time did you come into the office on that day?

15 A Probably shortly before 9:00.

16 Q And was there the meeting in Mr. Nussbaum's
17 office at 9:00?

18 A No, I went to Mr. Nussbaum's office. I
19 think that the interviews with the secretaries were
20 scheduled for around 9:00 or a little bit after
21 that. Some of the people from the staff were in
22 Mr. Nussbaum's office around that time, but

1 Mr. Nussbaum wasn't there at that time, and there
2 wasn't the usual morning meeting.

3 Q Did there come a time at which the Park
4 Police interviewed Betsy Pond?

5 A Yes.

6 Q Do you recall approximately what time that
7 was?

8 A 9:00, 9:15, 9:30, sometime like that.

9 Q Ms. Pond, was her desk located the closest
10 in the outer office to the door to Mr. Nussbaum's
11 office?

12 A Yes.

13 Q And also the closest to the door to
14 Mr. Foster's office?

15 A That's correct.

16 Q Is your recollection that she was present
17 the entire day on the 22nd?

18 A As far as I can recall, but I don't have a
19 clear recollection. I don't remember anything
20 inconsistent with that.

21 Q Did you speak to Mr. Nussbaum at all prior
22 to the interview with Ms. Pond?

1 A On the 22nd?

2 Q Yes.

3 A Not that I recall.

4 Q So the first event that happened on the
5 22nd relevant to the matters that we are here about
6 would be this interview with Betsy Pond?

7 A Well, that was the first event with respect
8 to kind of interaction with the Park Police about the
9 subject of the documents in Mr. Foster's office.

10 MR. ROMATOWSKI: You will get to it, but
11 did the interview have to do with the documents in
12 Mr. Foster's office?

13 THE WITNESS: No, except to the extent that
14 Betsy, I think, in that interview talked about
15 straightening things out.

16 BY MR. GIUFFRA:

17 Q Did you have any conversations with anyone,
18 prior to the interview with Betsy Pond, bearing in
19 any way on the documents in Mr. Foster's office?

20 A No, not that I recall.

21 Q You don't recall speaking to Mr. Neuwirth,
22 for example?

1 A No, I don't recall speaking to him about
2 the documents in Mr. Foster's office.

3 Q Or anything relating to the documents?

4 A That's right. I think I might have seen
5 him and we talked about the interviews that were
6 coming up and who was going to be in what room and
7 that kind of thing.

8 Q Did you have any discussion with anyone
9 with regard to any dissatisfaction on the part of the
10 Park Police with regard to how their investigation
11 was progressing?

12 A No, not that I recall.

13 Q Okay. The interview happened at 9:15.
14 Where was it held?

15 A I think that it was in Carol Rasco's
16 office.

17 Q Is that on the second floor of the West
18 Wing?

19 A Yes.

20 Q Who was present?

21 A Betsy Pond, myself, two people from -- I
22 don't remember if there were one or two people from

1 the Park Police or one or two people from the FBI. I
2 think, actually, two people had shown up from the
3 Park Police and two from the FBI. One went into each
4 of the rooms and interviews were going on
5 simultaneously. As I think about it, I think there
6 was one person from the FBI and one from the Park
7 Police. There was a Secret Service person, I don't
8 remember if he was in the room or in the hallway or
9 kind of in and out. I don't recall.

10 Q Why were you present during this interview?

11 A Well, Mr. Nussbaum suggested that we
12 accompany them to the interviews. My understanding
13 of it was to facilitate the inquiry.

14 Q Did any of the law enforcement personnel
15 that were present during any of these interviews
16 object in any way to your presence during the
17 interview?

18 A No.

19 Q And you took notes during the course of
20 this interview?

21 A Yes.

22 Q During the course of this interview, did

1 any of the law enforcement officers that were present
2 indicate to you in any way any dissatisfaction with
3 Mr. Nussbaum?

4 A I'm sorry. I want to make sure I have
5 that.

6 MR. GIUFFRA: Read that back.

7 (The reporter read the record as requested.)

8 THE WITNESS: No.

9 BY MR. GIUFFRA:

10 Q Or anyone else at the White House?

11 A No.

12 Q Did you advise Ms. Pond how she should
13 answer any questions during the course of this
14 interview?

15 A No, not that I recall.

16 Q During the course of the Pond interview,
17 did Mr. Nussbaum enter the room?

18 A Yes.

19 Q And how would you describe how he entered
20 the room?

21 A I would describe that he came in and said
22 is everything okay in here.

1 Q It would be your testimony that he did not
2 burst into the interview?

3 A He opened the door and came in. I will
4 leave it at that.

5 MR. ROMATOWSKI: Can I ask, had
6 Mr. Nussbaum been present previously that morning
7 when the Park Police arrived?

8 THE WITNESS: No, he had not.

9 BY MR. GIUFFRA:

10 Q That was the first time you saw him that
11 morning?

12 A Yes, I should say, and I knew that was the
13 first time that the Park Police had seen him or the
14 FBI people.

15 Q That morning, anyway?

16 A That was the first time they had seen him
17 that morning. The previous night it had been
18 discussed we were going to have the interviews that
19 morning. What I understood Mr. Nussbaum to be doing
20 when he opened the door and said is everything okay
21 in here, he was saying he hadn't seen them when they
22 came, he was saying is there anything I can get you,

1 is everything going okay, that's what I understood
2 Mr. Nussbaum to be saying.

3 MR. GIUFFRA: Off the record for a second.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q Following the interview with Ms. Pond, did
7 you have any discussions with Mr. Nussbaum?

8 A Immediately after her interview, no, I
9 don't remember any discussions with him.

10 Q Did you report back to Mr. Nussbaum on what
11 Ms. Pond had said to the Park Police?

12 A Not that I recall.

13 Q Did there come a time on the morning of the
14 22nd when there were discussions as to how a review
15 of documents in Mr. Foster's office should proceed
16 later that day?

17 A Yes.

18 Q What do you recall about that?

19 A Well, I remember that, at some point,
20 Mr. Nussbaum came back into the office. He had been
21 in and out of the office. He said to me or to me and
22 David Margolis -- I don't remember exactly -- that

1 the way that we were going to proceed was that he
2 would review the documents in the presence of the
3 other people in Mr. Foster's office.

4 Q When he made this statement, do you recall
5 where he made the statement?

6 A I think in his office.

7 Q Did you have any conversations with
8 Mr. Margolis prior to this conversation with
9 Mr. Nussbaum with regard to how the review of
10 documents in Mr. Foster's office would proceed?

11 A I don't recall discussions with
12 Mr. Margolis before that time. I may have. My
13 impression is that it was unresolved until
14 Mr. Nussbaum advised me of how it was going to
15 proceed.

16 Q Do you have any recollection as to whether
17 this was a matter of debate as to how the search
18 would proceed?

19 A Well, I know -- "of debate," could you be a
20 little more specific?

21 Q Debate, contention, controversy,
22 discussion.

1 A I mean between who and who?

2 Q Between Mr. Nussbaum and any non-White
3 House official.

4 A Well, after Mr. Nussbaum told me of that
5 and either I related it to Mr. Margolis or he was
6 there and heard it from Mr. Nussbaum himself, there
7 was a conversation with Deputy Attorney General
8 Heymann.

9 Q This is by telephone?

10 A Yes.

11 Q You were present at least listening to the
12 phone call?

13 A Let me just explain what it was. First,
14 without Mr. Nussbaum being present, either
15 Mr. Margolis told me that Mr. Heymann had a concern
16 about it -- or I think I was talking to Mr. Heymann
17 about another matter and he mentioned that he had a
18 concern about it, but, in any case, I believe that I
19 talked to Mr. Heymann briefly about it and that
20 Mr. Heymann said that he had a concern about it. I
21 said, well, you need to talk to Bernie about it, you
22 need to talk to Mr. Nussbaum about it.

1 Q Would it be your testimony that you were
2 the first person from the White House who advised
3 Mr. Heymann as to how the search would proceed?

4 A Well, I think that I was -- I can't speak
5 to what other communications people had with him from
6 the White House. What I do know is that either
7 talking to him directly, which I think was the case,
8 or by David Margolis telling me what he was saying on
9 the phone, I was informed that Mr. Heymann had a
10 concern about the procedure. I don't recall whether
11 I advised him -- I don't think I advised him of what
12 the procedure was going to be. I think Mr. Margolis
13 did. As I say, I can't speak to what other
14 conversations he had with anybody else in the White
15 House, but what I can say is that I was advised that
16 Mr. Heymann had a concern about the procedure.

17 Q What was your understanding as to the level
18 of concern that Mr. Heymann had about this
19 procedure? Was it a serious concern or mild concern?

20 A I wouldn't be able to characterize it in
21 those terms. I was advised he had a concern about
22 it.

1 Q Do you recall whether he was angry at
2 Mr. Nussbaum?

3 A I don't recall anger.

4 Q Again, when you say you don't recall, you
5 don't have any even general recollection?

6 A No, I recall it was an issue that he wanted
7 to discuss further. I told him that he needed to
8 talk to Mr. Nussbaum about it.

9 Q Was there any discussion with anyone with
10 regard to a change of plans as to how the search
11 would proceed?

12 A Not that I recall, not that I recall in
13 those terms. As I was mentioning before, I don't
14 remember the details of what had been discussed
15 before, and I have a sense that there may have been
16 kind of preliminary discussions. What stands out in
17 my mind is that it was resolved at this point and
18 Mr. Heymann expressed the fact that he had a
19 concern.

20 Q Do you have any understanding as to the
21 scope of those preliminary discussions?

22 A Not that I recall.

1 Q Did you ever have any understanding that
2 Department of Justice officials would review the
3 documents in Mr. Foster's office?

4 A I don't recall having that understanding.

5 Q Did anyone from the Department of Justice
6 indicate to you that they thought it appropriate that
7 someone from the Department of Justice review the
8 documents in Mr. Foster's office?

9 A I don't recall those particulars being
10 discussed.

11 Q How about in general terms?

12 A Well, I mean, I remember certainly from
13 many conversations afterwards, there were various
14 options. There were various possibilities. I have
15 heard Mr. Nussbaum describe this many, many times
16 since then, that there were various possibilities in
17 terms of ways of addressing the documents. One
18 possibility would have been to show the documents,
19 all of the documents to the people who were there.

20 Another possibility would have been to have
21 refused entry to the office to anybody who wasn't
22 from the White House or the White House counsel's

1 office and that the White House counsel would review
2 them with people not in the office and make
3 determinations. And what Mr. Nussbaum thought -- in
4 his ultimate resolution of it, he thought it was a
5 balance of those interests by him reviewing them in
6 the presence of other people.

7 But I certainly have heard him describe a
8 number of times that those were the kind of range of
9 possibilities in terms of addressing the documents.

10 Q Do you recall any discussion of whether
11 perhaps Mr. Margolis might be allowed to review the
12 documents?

13 A I don't remember a discussion of that.

14 Q Has Mr. Nussbaum ever indicated to you that
15 in retrospect, he might have allowed someone from the
16 Department of Justice to have reviewed the documents?

17 A No.

18 Q So, he stands by the procedure that was
19 adopted?

20 A I obviously can't speak for Mr. Nussbaum in
21 terms of his position.

22 Q Has he ever indicated to you that perhaps

1 he might have made a mistake with regard to the
2 procedure that he chose to review the documents?

3 A No.

4 Q Do you think he chose the proper procedure
5 to review the documents?

6 A You are asking me for a characterization.
7 I think it was a very difficult issue in very
8 difficult circumstances. I understand the legitimate
9 concerns on both sides of the issue and the balance
10 that he was attempting to strike.

11 In light of everything that has gone on and
12 some of the controversy and the issues, I sure wish
13 that if there had been a reasonable way that maybe
14 some of the issues and controversies could have been
15 avoided, that such actions would have been taken, but
16 that is probably the best I can do in terms of kind
17 of characterizing my assessment of it.

18 Q Do you recall any discussion on the 21st as
19 to reasons why Mr. Nussbaum did not want the Justice
20 Department officials to review the documents?

21 A I don't -- as I sit here, I don't recall
22 those discussions on the 21st.

1 MR. ROMATOWSKI: There is a premise to the
2 question. The last question was did you recall
3 discussions of the reasons Mr. Nussbaum didn't want
4 Justice Department people to review the documents.
5 Do you recall any discussion about the premise to
6 that question? Do you recall any discussion at all
7 to the effect that Mr. Nussbaum did not want Justice
8 Department people to review the documents?

9 THE WITNESS: What I recall, a lot of it
10 from conversations after the fact, is Mr. Nussbaum
11 saying generally that an attorney's obligation with
12 respect to a client's files is not just to open up
13 all of the files, even after a death or a suicide of
14 the attorney, and that he thought that was a fairly
15 well established principle and that it would have
16 been irresponsible to have done so and to waive any
17 applicable privileges.

18 So, in that sense, I have heard
19 Mr. Nussbaum speak about the importance of an
20 attorney's obligation to confidentiality with respect
21 to files.

22 MR. ROMATOWSKI: Do the --

1 MR. GIUFFRA: Let me continue on.

2 MR. ROMATOWSKI: Don't you care about when
3 this happened?

4 MR. GIUFFRA: Sure.

5 MR. ROMATOWSKI: These were conversations
6 on that day or subsequently?

7 THE WITNESS: Subsequently.

8 BY MR. GIUFFRA:

9 Q When you learned that Mr. Heymann had some
10 concern about the procedure that Mr. Nussbaum had
11 selected for this review of the documents in
12 Mr. Foster's office, what happened next?

13 A I'm sorry. Can I hear the question again.

14 (The reporter read the record as requested.)

15 THE WITNESS: I told Mr. Heymann that he
16 needed to talk to Mr. Nussbaum about it, and I
17 advised Mr. Nussbaum of the fact that Mr. Heymann
18 wanted to talk to him about it. It was my
19 understanding that this issue got resolved between
20 Mr. Nussbaum and Mr. Heymann and that we were going
21 to proceed in the way that Mr. Nussbaum had
22 outlined.

1 BY MR. GIUFFRA:

2 Q Do you have any understanding as to whether
3 Mr. Heymann was satisfied with the resolution with
4 regard to how the search would be conducted?

5 A Well, it was my understanding at the time
6 or my impression at the time that it had been
7 resolved to everybody's satisfaction and that that's
8 how it was going to go forward.

9 Q Were the Park Police, so far as you know,
10 party to these discussions as to how the search would
11 be conducted?

12 A When you say "party to these discussions,"
13 they weren't -- I don't recall the Park Police being
14 there, for example, when I was talking to
15 Mr. Margolis or Mr. Heymann about it. Mr. Margolis's
16 responsibility, as I understood, was on behalf of all
17 of the investigators.

18 Q But you don't know whether the Park Police
19 were ever brought into this process as to how the
20 search would proceed?

21 A When you say "this process," I'm not sure
22 if you are asking me whether they ever had

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1 discussions with Mr. Margolis about it. I wasn't
2 privy to whatever discussions they may have had with
3 Mr. Margolis about it. I didn't have discussions
4 with the Park Police about it during this period.

5 Q Do you know whether Mr. Margolis had any
6 discussions with the Park Police as to how the search
7 would proceed?

8 A Not that I know of. I think it was our
9 understanding that Mr. Margolis there on their
10 behalf.

11 Q Do you know whether the Park Police
12 designated Mr. Margolis to be their representative?

13 A I don't know if there was, but it was my
14 understanding that Mr. Margolis was represented the
15 interests of the investigators.

16 Q Do you have any knowledge whatsoever prior
17 to the search on the 22nd as to the arguments made by
18 Mr. Nussbaum as to why he did not want Department of
19 Justice officials to review the documents in
20 Mr. Foster's office?

21 A I don't recall particulars of that. As I
22 said in my earlier answer, what comes to mind are

1 conversations subsequently about the importance of
2 attorney-client privilege. It may well have been
3 that there were discussions along those lines before
4 that period as well, but I don't remember them in
5 particular as I sit here.

6 Q Do you recall any general statements by
7 Mr. Nussbaum as to why he did not want Park Police
8 officials -- excuse me. Do you recall any general
9 discussions in which Mr. Nussbaum gave any indication
10 as to why he did not want Department of Justice
11 officials to review the documents in Mr. Foster's
12 office?

13 MR. ROMATOWSKI: Counsel, once again, I'm
14 troubled by the misleading premise to your question.
15 Did Mr. Nussbaum ever say that he did not want
16 Justice Department or Park Police officials to review
17 the documents?

18 Before we get to the reasons why he might
19 have said such, did you ever hear him express that?

20 THE WITNESS: Not in those words. What I
21 did hear him express is that he would be reviewing
22 the documents in the presence of the other people.

1 It was my understanding that he was the only one who
2 was going to be reviewing the documents.

3 BY MR. GIUFFRA:

4 Q Did he ever indicate to you why he would be
5 the only person reviewing the documents?

6 A As I sit here, I don't recall a discussion
7 of the reasons. As I say, Mr. Nussbaum was in and
8 out. He came in and said this is how we are going to
9 proceed, but I can't exclude the possibility that
10 there were discussions consistent with what I
11 definitely remember from subsequent discussions.

12 But I guess I should say, in terms of the
13 dynamic of the day, there had been the interviews
14 with the witnesses. This was the next item. The
15 important thing, the thing that stayed in my mind was
16 how it was going to proceed. That's what I was
17 focused on at the time.

18 Q Did anyone from the Department of Justice
19 indicate to you anything that Mr. Nussbaum had said
20 with regard to why he would be the person who would
21 review the documents?

22 A Not that I recall.

1 Q Do you have any general recollection?

2 A Not that I recall.

3 Q Do you have any recollection of the
4 attorney-client privilege being raised prior to the
5 review that occurred on the 22nd?

6 A Again, I don't remember specifically. It
7 would not surprise me if it was, consistent with the
8 later discussions. I'm not excluding the possibility
9 that it was. That is kind of my understanding of the
10 context of the review and the discussion. So, it
11 very well may have. I just don't specifically recall
12 it coming up in that period. As I say, what I was
13 really focused on was how this was going to proceed
14 and what the arrangements were.

15 Q Do you recall Mr. Nussbaum at any time
16 indicating to you that he was concerned about the
17 sensitivity of the documents in Mr. Foster's office?

18 A I don't remember him referring to it in
19 those terms, no.

20 Q Do you recall him ever indicating to you,
21 prior to the review, anything having to do with the
22 fact that Mr. Foster's office contained documents

1 relating to the personal financial matters of the
2 President and First Lady?

3 A No, I don't remember a reference to that or
4 a concern about that. The only possible reference
5 that comes to mind is the fact that, as I mentioned
6 earlier, there was this trust-related document that
7 was in there. What I remember about that is only
8 that it was desired that that would be located so
9 that it could be signed or executed or whatever
10 needed to be done.

11 Q Did there come a time -- strike that.

12 Do you recall anything more about the
13 conversations with the Justice Department as to who
14 would review the documents?

15 A No, not that I recall.

16 Q What happened next?

17 A As I said, it was my understanding that the
18 issue had been resolved and it was going to go
19 forward on the basis that Mr. Nussbaum had
20 described. So at around, I think, 2:00 on Thursday,
21 the 22nd, various people went into Mr. Foster's
22 office. It was unlocked by the Secret Service, as I

1 recall, and various people went into Mr. Foster's
2 office.

3 MR. ROMATOWSKI: If we are about to turn to
4 the subject of the review in Mr. Foster's office, we
5 have been at this about an hour and 15, could we take
6 just five minutes?

7 MR. GIUFFRA: That's fine.

8 (Recess.)

9 BY MR. GIUFFRA:

10 Q If you could -- let's do one thing first.

11 Everyone entered Mr. Foster's suite; is that
12 correct -- office?

13 A I don't know about everyone. The people
14 who did were Mr. Nussbaum, myself, Mr. Neuwirth,
15 Mr. Margolis and Mr. Adams from the Justice
16 Department, two people from the FBI, two people from
17 the police, two Secret Service agents. Bill Burton
18 was in and out during the course of the review. I
19 don't know if he was there at the beginning or not.
20 And Mike Spafford, who was there representing the
21 Foster family.

22 Q Had you met Mr. Spafford before?

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1 A Just that day.

2 Q Did you have any discussions with him that
3 day?

4 A No, other than a little bit of chitchat
5 about when we were going to get started and how long
6 he had been at his law firm, I think. Just some
7 isolated chitchat.

8 Q But you had definitely been introduced to
9 Mr. Spafford?

10 A Yes, I was introduced to him that day.

11 Q If you could perhaps sketch out on legal
12 pad the location of everyone during the course of
13 this review in Mr. Foster's office.

14 A Okay, recognizing that I probably have the
15 worst art talent of anybody.

16 Q When you have one you are satisfied with,
17 we will make it Sloan Exhibit 1.

18 Let's go off the record.

19 (Recess.)

20 BY MR. GIUFFRA:

21 Q Mr. Sloan, I have asked you to draw on a
22 legal pad, which we will mark the piece of paper as

1 Sloan Exhibit 1, where you believe various persons
2 were during this review process.

3 Do you believe that this drawing that you
4 have set forth in what is now going to be known as
5 Sloan Exhibit 1 fairly represents the location of the
6 various persons in Mr. Foster's office during the
7 review process?

8 A It does to the best that I can recall, but
9 it is subject to the imperfections both of my
10 artistic ability and my recollection. I am a little
11 bit hazy on exactly where people were, but this is as
12 best I can recall.

13 Q The squiggle lines you put next to your
14 name, your initials, Mr. Neuwirth's name and initials
15 and, I believe, Mr. Burton's initials, what does that
16 indicate?

17 A That indicates that, to the best of my
18 recollection, people were moving around a little bit
19 more than other people. So the location that is
20 shown was possibly one of a number of locations.

21 Q Other than the picture that had been given
22 to the President, at the start of this review

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1 process, was it your understanding that no materials
2 of any sort had been removed -- other than the
3 trash, which had been brought back as well -- from
4 Mr. Foster's office?

5 A It is correct that the only item that I'm
6 aware of that was taken out was the picture that we
7 talked about. I want to make sure there is no
8 confusion about the bag of trash. The only thing
9 about the bag of trash after the office was sealed
10 was that it was put into the office. It was never
11 taken out of the office after the office was sealed.
12 I want to be clear about that.

13 Q What do you recall -- Mr. Nussbaum was
14 sitting at Mr. Foster's desk?

15 A That's correct.

16 Q At the start of the review process, did
17 Mr. Nussbaum state any ground rules for everyone?

18 A Not that I recall. He may have, but not
19 that I recall.

20 Q And you don't recall anyone -- do you
21 recall any comments from any of the law enforcement
22 people present at the start of the process?

1 A No.

2 Q No one asked him how the process would
3 proceed?

4 A Not that I recall.

5 Q What do you recall about the review
6 process?

7 A I remember that Mr. Nussbaum would pick up
8 different items and documents and describe the
9 contents. He would put them into different piles.
10 One pile was Foster personal documents. Another pile
11 was for those things that anybody in the room
12 expressed an interest in seeing, and it was clear --
13 this may have been discussed at the beginning -- it
14 was clear if anyone wanted to see something and
15 expressed an interest, it would be put in that pile.
16 The third pile was basically everything else, work
17 related, anything that wasn't in either of the two
18 piles I described.

19 Q Was there a pile for the President and
20 Mrs. Clinton's personal documents?

21 A Not during this process that I recall.

22 Q About how long did the entire process take?

1 A It is hard to estimate. A very rough
2 estimate is an hour, but that could be off by quite a
3 bit in either direction, but that is the rough
4 estimate.

5 Q About a half hour off in either direction?

6 A That sounds about right.

7 Q So probably at least an hour, an hour, hour
8 and a half?

9 A My sense is in the hour range.

10 Q But not less than an hour?

11 A That's my best estimate, but as I said, my
12 estimate might be off.

13 Q Do you recall which files Mr. Nussbaum
14 reviewed first?

15 A Not off the top of my head, I don't.

16 Q Do you recall if he first reviewed the
17 documents contained in the desk?

18 A I believe that he started with the desk.

19 Q Do you recall when you entered the office
20 whether there were any documents on the coffee table?

21 A I don't recall.

22 Q Do you recall Mr. Nussbaum ever reviewing

1 any documents on the coffee table?

2 A I don't recall that specifically.

3 Q Any general recollection?

4 A I just don't recall one way or the other.

5 I can say that my impression after we left the office

6 was that Mr. Nussbaum had reviewed the documents red

7 wellplace that there were documents, but I don't

8 recall specifically one way or the other about the

9 coffee table.

10 Q Did Mr. Nussbaum -- were there any
11 documents on top of Mr. Foster's desk when you
12 arrived?

13 A I think so, but it is a little difficult to
14 recall.

15 Q Do you recall how those documents were
16 arrived?

17 A No.

18 Q Did you recall the quantity of documents on
19 top of Mr. Foster's desk?

20 A No.

21 Q Do you recall whether there were any other
22 items besides documents on top of Mr. Foster's desk?

1 A I don't recall what was on top of his
2 desk.

3 Q Do you recall if Mr. Nussbaum had to open
4 any of the drawers in Mr. Foster's desk using a key?

5 A I don't recall the detail about a key. I
6 recall him opening drawers in Mr. Foster's office,
7 but I don't recall the detail about a key.

8 Q Did Mr. Nussbaum removal the documents from
9 Mr. Foster's desk drawers?

10 A I don't recall whether he removed them all
11 or looked through them all in the desk. At some
12 point I think that he was describing things, but they
13 were continuing to be in the files. He wasn't
14 continually adding all of them to the pile that was
15 on the desk, but I associate that with later in the
16 process.

17 Q You are not sure whether he emptied the
18 drawers in the desk?

19 A I'm not positive.

20 Q Do you know one way or another by estimate?

21 A No.

22 Q At the end of the process, about how tall

1 were the various piles?

2 A It is difficult to recall. Let me give you
3 the best recollection that I can. The biggest pile,
4 as I recall, was what I referred to as the third
5 pile, everything that wasn't in either the Foster
6 personal pile or the pile of things that people had
7 identified to see later, that they wanted to see.

8 It was a substantial pile on Mr. Foster's
9 desk of the things in that category, everything
10 else.

11 Q Do you recall how high? One foot high or
12 two feet high?

13 A I'm bad at those kinds of estimates. I
14 would say about a foot. It was a fairly significant
15 pile.

16 MR. KRAVITZ: Which pile is that?

17 THE WITNESS: This was the pile that was
18 everything else/work related.

19 The pile that people expressed an interest
20 in seeing was relatively thin. It fit into a redwell
21 folder and wasn't even kind of a bulging redwell
22 folder. I don't remember the size of the pile of

1 Foster personal documents.

2 BY MR. GIUFFRA:

3 Q Mr. Nussbaum did not look through every
4 piece of paper in the office, is that correct, on a
5 page-by-page basis?

6 A I'm not sure exactly what he was doing with
7 every document. My impression was that he was
8 describing each document, either in general or
9 summary terms, and he certainly was paging through a
10 number of them. Whether I can say absolutely that he
11 paged through every single one or not, probably not.
12 Probably if it was clear what it was on the cover and
13 it was a thick document, he probably didn't. He
14 certainly seemed to me to be kind of going through
15 each document on a document-by-document basis --

16 Q As --

17 A -- but it may have been a more general
18 description along those lines.

19 Q Was this process at the beginning maybe
20 document by document and later on more general, like
21 those are the documents up on the bookcase having to
22 do with health care? Does that ring a bell?

1 A It doesn't ring a bell specifically, but it
2 is possible.

3 Q Now, as Mr. Nussbaum was reviewing these
4 documents, was he seeking the advice of anyone?

5 A Well, it was clear, as I mentioned, that if
6 anybody wanted to see something, it would be put
7 aside for later discussion or review. So if that
8 counts as seeking people's advice, it was seeking
9 their response in that sense.

10 Q Did he show the documents to anyone in the
11 room?

12 A Every now and then he would hold up a
13 document.

14 Q Who would he show it to?

15 A Every now and then he would show it to the
16 room with respect to some of the documents.

17 Q Did he allow -- who did he allow to read
18 any of the documents?

19 A I don't remember anybody reading any of the
20 documents.

21 Q Did you look at any of the documents?

22 A Not that I recall.

1 Q Is it your testimony that Mr. Nussbaum
2 never asked you to look at any of the documents?

3 A That's right. I don't recall him ever
4 asking me to look at a document.

5 Q Is it your testimony that he never asked
6 Mr. Neuwirth to look at a document?

7 A I don't recall him asking Mr. Neuwirth to
8 look at a document.

9 Q Did you have a private conversation with
10 Mr. Nussbaum during the course of this review?

11 A Not that I recall.

12 Q So you never whispered anything into his
13 ear, for example?

14 A Not that I recall.

15 Q Did you ever recall Mr. Neuwirth having a
16 private conversation with Mr. Nussbaum?

17 A Not that I recall.

18 Q Again, when you say you don't recall, that
19 means you have no recollection at all?

20 A That means I have no recollection that that
21 occurred.

22 Q Could the law enforcement officials see

1 from where they were positioned or read any of the
2 documents that Mr. Nussbaum was reviewing?

3 A Well, I'm not sure if they could or not.

4 Q Were they positioned in such a way that
5 they could not, from what you --

6 A Well, they were across the room.

7 Q Away from the desk?

8 A Away from the desk. It is a relatively
9 small room.

10 Q Was that positioning done on purpose?

11 A I don't recall it being a conscious plan,
12 but that was certainly how it proceeded. It was
13 clear to me at that point that Mr. Nussbaum was the
14 person who was reviewing the documents, that that's
15 the procedure under which it was proceeding.

16 Q Did anyone give any instruction to any of
17 the law enforcement officials as to where they should
18 position themselves in the room?

19 A There was one incident that may relate to
20 that.

21 Q But at the start of the review --

22 A Not that I recall.

1 Q -- was Mr. Spafford positioned more
2 close -- was Mr. Spafford positioned more close to
3 the desk than the law enforcement officials?

4 A He may have been somewhat. He was standing
5 against the side. I guess, if I remember correctly,
6 he was standing against the side. That was a place
7 where there was more standing room than where the
8 seats and so forth were in the room, but
9 Mr. Spafford, I believe, was fairly close to the
10 other people in the room.

11 Q Was Mr. Spafford in a position where he
12 could see the documents as Mr. Nussbaum was reviewing
13 them?

14 A Again, it is difficult for me to say
15 exactly what people could see from different parts of
16 the room. He wasn't directly behind a desk or
17 anything like that.

18 Q He was closer to the desk than the law
19 enforcement people?

20 A I think he was a little bit closer to the
21 desk, but he was also to the side and they weren't to
22 the side.

1 Q How carefully did Mr. Nussbaum review the
2 papers?

3 A He would look at them and give a
4 description. I can recall him on some occasions
5 paging through them.

6 Q What do you recall about the descriptions
7 that he provided to persons present in the room?

8 A Well, I just remember that there were
9 descriptions in general terms. I'm sure that you
10 have notes that I took during this session which were
11 of the things or some of the things that Mr. Nussbaum
12 was saying, and those would probably be my best
13 recollection of what Mr. Nussbaum was saying about
14 the documents.

15 Q Do you recall any indication from
16 Mr. Nussbaum that any of the documents related to the
17 President and First Lady's financial matters?

18 A Well, I think in my notes there is a
19 reference to something along those lines. I would
20 want to look at the notes to make sure. I don't have
21 an independent recollection of it, but I think there
22 is a reference to that in my notes.

1 Q I believe you testified before that the
2 first you learned of a Whitewater file being in
3 Mr. Foster's office was in December of 1993?

4 A That's correct.

5 Q Do you recall any discussion of a
6 Whitewater file during the course of this review?

7 A No, not that I recall.

8 Q Do you recall any discussion of tax return
9 information for the President and First Lady during
10 the course of the review?

11 A Not that I recall. I'm not certain if
12 there is a reference to that in my notes or not, but
13 not that I recall independently.

14 Q In preparing your notes, did you attempt to
15 write down the various items as Mr. Nussbaum was
16 ticking them off?

17 A I tried to write down some of the -- I
18 tried to write down the things he was saying. And
19 some of the things, it is not in a form that kind of
20 easily corresponds to particular documents. In some
21 instances it may have been and in some instances it
22 wasn't.

1 Q Were you trying to keep, as close as you
2 could, a record of what Mr. Nussbaum was saying?

3 A I wouldn't say as close as I could. I was
4 writing down some of the things that Mr. Nussbaum was
5 saying in describing them.

6 Q What was the reason why you were taking the
7 notes?

8 A I started to take them down thinking that
9 it might be a good idea to try to have a record, but
10 as it progressed, it got difficult because he was
11 moving around the room, and there were different
12 documents, and it was difficult to kind of link up
13 descriptions with documents. And so I think I
14 started taking less comprehensive notes because I
15 wondered about the usefulness.

16 Q Do you recall any conversations between
17 Mr. Nussbaum and any of the Department of Justice
18 attorneys with regard to privileged documents?

19 A No, I don't recall. I think that in my
20 notes there may be a couple of references to
21 privilege at different points in a kind of general
22 fashion, not a detailed reference, but beyond that, I

1 don't have a specific recollection of it coming up in
2 that discussion.

3 Q Do you recall any complaints being
4 registered by anybody from the Park Police during the
5 course of this review process?

6 A Not that I recall.

7 Q Do you recall anything that anyone from the
8 Park Police said during the course of this review
9 process?

10 A Not that I recall offhand.

11 Q Do you recall anything that anyone from the
12 Department of Justice said during the course of this
13 review process?

14 A Yes.

15 Q What do you recall?

16 A Well, let's see, including -- let me back
17 up for one second, actually, when you talk about the
18 Park Police. I remember that people expressed an
19 interest in seeing the documents that were in the
20 pile that I mentioned that was set aside for further
21 review.

22 Q Do you recall what types of documents they

1 were?

2 A Hold on one second. Let me finish my
3 earlier answer. I don't recall exactly who in each
4 instance said we would be interested in seeing that
5 later. It may have been Park Police, may have been
6 FBI or Justice Department lawyers. They may have
7 spoken up in that context.

8 The next question, I think, was do I recall
9 what those kinds of documents were.

10 Q Correct.

11 A There were phone message slips. There were
12 some calendars, I think. There is a piece of paper,
13 I think, that has a person's name and "photograph" --
14 and the word "photograph" on it. At some point,
15 phone logs were in the pile of things they wanted to
16 review later. I'm not sure if they were in
17 Mr. Foster's office or whether they were placed in
18 the pile because they wanted to review it. There
19 were a lot of individual phone message slips.

20 Those are the things that come to mind that
21 were in that pile.

22 Q During the course of the review, did

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1 Mr. Nussbaum make any statements along the lines that
2 the documents that were in Mr. Foster's office on the
3 night of his death were still in the office during
4 the review process?

5 A I don't remember him saying that. He might
6 have, but I don't remember him saying that.

7 Q Was that the understanding that everyone
8 was operating under during the course of the review?

9 A I don't know if --

10 MR. ROMATOWSKI: How could he know what
11 everyone in the room's understanding was unless it
12 was expressed?

13 BY MR. GIUFFRA:

14 Q That was your understanding?

15 A The only reason that -- I'm trying to
16 remember exactly when I knew about events on the
17 night of July 20th and that no documents were taken.
18 I certainly was aware that no documents had been
19 taken out -- it was my understanding no documents had
20 been taken out since the 21st. I'm a little unclear
21 about what my state of knowledge the night of the
22 20th was, but it certainly was consistent with my

1 ultimate understanding that no documents were taken
2 out on the night of the 20th.

3 Q Do you recall making any statements
4 yourself during the course of the review process?

5 A Yes.

6 Q What do you recall saying?

7 A This relates to -- I wanted to say also
8 that I had not finished my earlier answer when you
9 asked me about what people from the Justice
10 Department said. This also relates to comments that
11 people from the FBI and the Justice Department had
12 said. At one point in the review process,
13 Mr. Neuwirth leaned over to me and said about Agent
14 Salter, something like he is looking at the
15 documents. I looked at Mr. Salter, and he was
16 standing up, and it did seem to me like he was
17 looking at the documents. That seemed to me to be
18 inconsistent with the procedure that I understood was
19 being followed in the review.

20 So I said to Mr. Salter something like
21 either you are not looking at the documents, are you,
22 or you are not standing up to look at the documents,

1 are you. And Agent Salter said, no, I'm not, let's
2 not get carried away, or words to that effect.

3 As he said that, Mr. Nussbaum kind of
4 raised his hand and said that he wasn't saying what I
5 had said, he was saying I'm not saying that, that's
6 fine. I instantly realized that I had said something
7 that was really not appropriate, and I apologized and
8 just expressed my apology to Agent Salter and to the
9 others.

10 It then was a subject of some kidding,
11 actually, throughout the review process, and I
12 apologized again when it would come up later in the
13 review process when people would kid about it.

14 Q What was your tone of voice when you made
15 the comment to Agent Salter?

16 A I think I just expressed it -- I just said
17 in a relatively undistinctive tone, I just said
18 something like you are not standing up to look at the
19 documents, are you, or you are not looking at the
20 documents, are you?

21 Q It wasn't a scolding tone?

22 A I would not characterize my tone as a

1 scolding tone.

2 Q It was your understanding that the
3 Department of Justice officials were not to review
4 the documents?

5 A It was my understanding that Mr. Nussbaum
6 was the person who was reviewing the documents and
7 describing them to the other people in the room.
8 That was my understanding.

9 Q Did Mr. Nussbaum ever indicate during the
10 course of the review that other persons in the room
11 could review documents?

12 A No, other than the fact that, as I said,
13 every now and then he would hold up a document, first
14 of all. Second of all --

15 Q When you say he held up a document --

16 A Can I just complete my answer?

17 Q Sure.

18 A Secondly, as I indicated, if somebody else
19 wanted to see a document, it was set aside for
20 further discussion or review, and it was clear that
21 anybody could express that interest at any time.

22 Q When you say "hold up a document," did

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1 Mr. Nussbaum hold the document up in such a way that
2 persons in the room could read the document? Or did
3 he just hold up the document with the print of the
4 document facing only Mr. Nussbaum or the people in
5 the room?

6 A I think on occasion he held it up with the
7 print facing the people in the room.

8 Q Do you recall any occasion upon which
9 anyone other than Mr. Nussbaum was in a position to
10 read the documents that Mr. Nussbaum was reviewing?

11 A Other than what I have previously
12 described, no. I guess the only other point that I
13 should add is that the way we have been discussing
14 this, it has been with Mr. Nussbaum behind the desk.
15 At some point in the review, he started to move
16 around the office to where there were different files
17 and he would be kind of taking things out at
18 different places.

19 Q In your drawing, there is a credenza on the
20 right-hand side of Mr. Foster's office looking in at
21 his desk, a bookcase along the wall; is that correct?

22 A Yes.

1 Q Did Mr. Nussbaum -- was there a file
2 cabinet built into the bookcase?

3 A I believe so.

4 Q Do you recall whether Mr. Nussbaum pulled
5 any documents out of that file cabinet?

6 A I don't have a clear recollection of
7 whether he pulled them out or not. My general
8 recollection is that at the end of the review
9 session, I felt that he had looked at documents in
10 kind of all parts of the office, but I don't really
11 have a clear recollection of what he did with those
12 files.

13 Q Do you recall how long he was looking at
14 the documents that were in the cabinets below the
15 bookcase?

16 A I don't.

17 Q Were there any binders in the bookcase?

18 A Yes. By binders, notebooks. I seem to
19 remember a notebook which I think was on the
20 bookcase, although it might have been elsewhere,
21 about judicial nominations and Supreme Court
22 candidates.

1 Q Did Mr. Nussbaum review all of this
2 notebook, or did he just point to it and say this
3 is --

4 A I don't recall exactly what he did with
5 it. I don't recall that he pointed to it.

6 Q Do you recall Mr. Nussbaum individually
7 taking books off the bookcase and flipping through
8 them?

9 A I don't recall that offhand.

10 Q With regard to the credenza to the left,
11 looking into the office, do you recall Mr. Nussbaum
12 looking through the credenza?

13 A Again, I don't have a specific recollection
14 of that. I would only say that my impression at the
15 end of the review session was that Mr. Nussbaum had
16 looked in all of the relevant places in the office.

17 Q Now, with regard to the documents that were
18 in the piles, that would not constitute all the
19 documents that were in Mr. Foster's office; correct?

20 A That's correct.

21 Q Do you know what proportion of the
22 documents that were in Mr. Foster's office those

1 piles would constitute?

2 A I wouldn't know how to begin to estimate.

3 Q You don't recall any -- just to be clear on
4 this, no discussions about privilege with the
5 Department of Justice?

6 A I think we talked about this before. I
7 don't recall it. I think there are a couple
8 references to privilege in my notes, but I don't have
9 an independent recollection of it.

10 Q Now, did Mr. Foster have a briefcase?

11 A I'm sorry?

12 Q Do you know whether Mr. Foster had a
13 briefcase?

14 A Just generally do I know whether he had
15 one?

16 Q Yes.

17 A Are you asking was there one in the
18 office?

19 Q Strike the question.

20 Was there a briefcase in the office?

21 A Yes.

22 Q Where was the briefcase located? If you

1 want to mark the briefcase on this exhibit.

2 A I'm not going to do that, because that
3 would give a sense of certainty or possible certainty
4 that I don't have. I don't really remember very much
5 about where the briefcase was in the course of the
6 review. My sense is -- my sense is -- whether it was
7 under the desk or behind the desk, I'm not really
8 sure about. I don't have a very clear recollection
9 of where the briefcase was.

10 Q What actions did Mr. Nussbaum take with
11 regard to the briefcase?

12 A As I mentioned, I don't have a clear
13 independent recollection as I sit here. There were
14 some notes that I took which were provided I know to
15 the Banking Committee last summer from about a week
16 after the review, which is probably my best
17 contemporaneous recollection with respect to the
18 briefcase, but I don't have a clear independent
19 recollection with respect to the briefcase.

20 Q Do you have any recollection with regard to
21 the review of the briefcase during the course of this
22 review?

1 A When I look at my notes, that's consistent
2 with my recollection, but it is really -- that's
3 probably because I think my notes are my best
4 recollection. I really don't have much of an
5 independent recollection.

6 Q Do you have any recollection of
7 Mr. Nussbaum taking any documents out of the
8 briefcase?

9 A Yes. I mean, I think that I recall
10 Mr. Nussbaum doing that. I think there is a
11 reference to that in my notes. It is a little hard
12 to separate whether I am getting that from my notes
13 or from an independent recollection. That seems
14 consistent with my recollection.

15 Q Do you recall whether he was pulling out
16 file folders or individual sheets of paper?

17 A The best of my recollection, I think it is
18 files, but I'm not absolutely sure.

19 Q Where were you standing when Mr. Nussbaum
20 was handling the briefcase?

21 A I don't recall exactly. The briefcase,
22 which I know has gotten a lot of attention, was not

1 kind of a big issue or focus in the course of the
2 review. I don't remember exactly where I was when
3 the briefcase was being discussed or reviewed.

4 Q When Mr. Nussbaum was pulling papers out of
5 the briefcase, do you recall him saying anything?

6 A No, I don't have a recollection.

7 Q Do you have any recollection?

8 A Of what he said about the briefcase, no.

9 Q Do you recall what kind of a briefcase this
10 was?

11 A No, I don't. I don't have a clear
12 recollection of it.

13 Q Do you recall if it had handles on it?

14 A I don't recall.

15 Q Do you recall the color?

16 A I don't recall.

17 Q Do you recall whether it was a briefcase
18 that opened from the side or from the top, like a
19 folding open briefcase or one where you go down into
20 it?

21 A I think from the top, but I'm not
22 absolutely sure.

1 Q Do you recall whether there was a zipper on
2 the top?

3 A I think so. That's how I'm recalling it.
4 That might well be an imperfect recollection.

5 Q Do you recall if the briefcase was a hard
6 briefcase or a soft briefcase, hard leather, soft
7 leather?

8 A By "hard leather," you mean the kind with a
9 very hard --

10 Q Correct, which we lawyers are all familiar
11 with.

12 A I believe that it was a soft briefcase, but
13 I'm not absolutely positive.

14 Q Do you recall about the approximate size of
15 the briefcase?

16 A No.

17 Q Did there ever come a time when
18 Mr. Nussbaum indicated that the briefcase was empty?

19 A I don't recall exactly him saying that. I
20 know that in my notes, there is a reference that I
21 had the impression that it was empty and that I
22 wasn't sure exactly how I had gotten that impression,

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1 but that I had the impression that it was empty.

2 Q During the course of the review, did you
3 ever look into the briefcase?

4 A I don't recall. As I said, in my notes, I
5 think there is a reference that I thought it was
6 empty and I didn't know if that was from looking in
7 it or not, but that I thought it was empty. I
8 believe that's right, but I would need to refer to my
9 notes. As I sit here, I don't have a recollection.

10 Q Did you ever say anything to Mr. Nussbaum
11 with regard to whether there were any contents in the
12 briefcase?

13 A Not that I recall.

14 Q When you give that answer, it is absolutely
15 no recollection whatsoever?

16 MR. ROMATOWSKI: I object to the form of
17 the question. You can ask him what he remembers. He
18 will tell you what he remembers, okay. Don't argue
19 with the witness, please.

20 MR. GIUFFRA: I'm not arguing at all.

21 THE WITNESS: Well, there is an objection
22 to the form of the question.

1 MR. GIUFFRA: Read the question back
2 (The reporter read the record as requested.)

3 MR. KRAVITZ: I don't understand the
4 question. Does that refer to just during the office
5 review on July 22nd or does it mean any time?

6 BY MR. GIUFFRA:

7 Q During the office review on July 22nd,
8 1993, did you ever notice any papers, scraps of
9 paper -- strike that.

10 During the office review on July 22nd,
11 1993, did you notice any scraps of paper in the
12 briefcase that Mr. Nussbaum reviewed?

13 MR. ROMATOWSKI: I think there is already
14 testimony that he thinks that Mr. Nussbaum took
15 documents out of the briefcase.

16 MR. GIUFFRA: Read the question back.
17 (The reporter read the record as requested.)

18 THE WITNESS: No, not that I recall.

19 BY MR. GIUFFRA:

20 Q And when you give that answer, absolutely
21 no recollection of any scraps of paper being in
22 Mr. Foster's briefcase?

1 MR. ROMATOWSKI: Once again, I'm troubled
2 by "scraps of paper." We have already established,
3 haven't we, that he thinks that Mr. Nussbaum removed
4 documents from the briefcase and examined them.

5 BY MR. GIUFFRA:

6 Q After Mr. Nussbaum had pulled out the
7 papers from the briefcase, did he put the papers back
8 in the briefcase?

9 A Not that I recall.

10 Q After he had --

11 MR. ROMATOWSKI: Let's make this clear. Do
12 you recall that he left them out or do you recall
13 what he did with them at all?

14 THE WITNESS: I don't recall what he did
15 with them. I know that, as I said in my notes, I
16 have the impression that the briefcase was empty, but
17 I don't have a recollection of what he did with
18 them.

19 BY MR. GIUFFRA:

20 Q After Mr. Nussbaum had taken papers out of
21 Mr. Foster's briefcase, did you notice anything in
22 the bottom of the briefcase?

- 1 A Not that I recall.
- 2 Q Did you notice any scraps of paper in the
3 bottom of Mr. Foster's briefcase?
- 4 A Not that I recall.
- 5 Q You have absolutely no recollection?
- 6 A I have a problem with the question because
7 if I had a recollection, I would give it to you.
- 8 Q Okay.
- 9 MR. KRAVITZ: Was that question limited to
10 the time period of the office review or is that
11 expanded to any time?
- 12 BY MR. GIUFFRA:
- 13 Q During the time of the office review.
- 14 A I stand by my answer.
- 15 Q So your recollection is you don't recall
16 seeing any scraps of paper in the bottom of the
17 briefcase?
- 18 A That's correct.
- 19 Q Did there ever come a time at which you saw
20 scraps of paper in the bottom of Mr. Foster's
21 briefcase?
- 22 A Not that I recall.

- 1 Q Do you recall whether Mr. Nussbaum after he
2 removed papers -- strike that.
- 3 Do you recall whether Mr. Nussbaum removed
4 papers from the briefcase one file folder at a time
5 or did it all in one motion?
- 6 A I don't recall.
- 7 Q Do you recall whether Mr. Nussbaum after he
8 had removed the file folders looked inside the
9 briefcase?
- 10 A I don't recall.
- 11 Q Do you recall whether Mr. Nussbaum turned
12 the briefcase upside down?
- 13 A I don't recall.
- 14 Q And your testimony is you don't recall him
15 saying anything like "the briefcase is empty"?
- 16 A No, I don't have a recollection of him
17 saying that.
- 18 Q But the understanding of the people in the
19 room was that the briefcase was empty?
- 20 MR. KRAVITZ: I object.
- 21 THE WITNESS: I obviously can't speak to
22 the understanding of the people in the room.

1 BY MR. GIUFFRA:

2 Q What was your understanding of what
3 happened after he finished removing papers from the
4 briefcase?

5 A As I have said on numerous occasions and
6 from my notes, it was my understanding that the
7 briefcase was empty.

8 Q After Mr. Nussbaum completed his review of
9 the briefcase, what did he do with it?

10 A I don't recall.

11 Q Do you know whether anyone else -- did you
12 ever look into the briefcase at any time after
13 Mr. Nussbaum completed his review of the briefcase?

14 A Not that I recall.

15 Q Do you know whether anyone else who was
16 present ever looked inside the briefcase after
17 Mr. Nussbaum completed his review?

18 A Other than the events that I have been told
19 about in connection with Steve Neuwirth putting the
20 briefcase into a box on July 26th, the answer is not
21 that I recall or am aware of.

22 Q Do you recall approximately when during the

1 course of the review process Mr. Nussbaum examined
2 the briefcase?

3 A No, I'm not really sure.

4 Q Early in the process? Late in the process?

5 A My impression would be later in the
6 process, but that may be imprecise.

7 Q Do you recall whether Mr. Nussbaum --
8 strike that.

9 Do you recall any discussion of trash
10 during the course of the review in Mr. Foster's
11 office?

12 A There is a reference to that in my notes.
13 I don't have an independent recollection of it.

14 Q Do you recall ever going outside
15 Mr. Foster's office to retrieve trash?

16 A When?

17 Q During the course of the review.

18 A No.

19 Q So, it is your testimony -- do you recall
20 ever leaving Mr. Foster's office during the course of
21 the review?

22 A Not that I recall.

1 Q And did Mr. Nussbaum then proceed to go
2 through the trash?

3 A Yes, I think that he -- I have a vague
4 recollection that he opened this bag of trash that
5 had been placed there and kind of described its
6 contents. As I said, there is a reference in my
7 notes to that.

8 Q Do you recall any review of a burn bag?

9 A I don't recall it. There is a reference to
10 a burn bag in my notes.

11 Q Do you know if Mr. Foster maintained any
12 documents outside of his office?

13 A What kind of -- could you clarify what you
14 mean.

15 Q Maintained papers outside of his office,
16 but within the counsel's suite.

17 A Not that I know of. Let me just qualify
18 that, when you are talking about in the counsel's
19 suite, with a couple references. As I indicated
20 earlier, there were some files that the secretaries
21 kept in the outer office, and maybe Mr. Foster's
22 secretary had a file.

1 Q You have no independent knowledge with
2 regard to that?

3 A No, I don't have any independent knowledge
4 with regard to that.

5 Q Did anyone ever say to you that Mr. Foster
6 maintained any documents in the safes that were in
7 Mr. Nussbaum's office?

8 A No, nobody ever said that to me. There was
9 a time after these events in the fall of 1993 at one
10 point when Mr. Nussbaum gave me a file that had been
11 Mr. Foster's related to war powers issues that had
12 some sensitive material in it. I'm not sure whether
13 Mr. Foster had kept that in that safe in
14 Mr. Nussbaum's office when he was there or whether it
15 was kept somewhere else when he was alive, but that
16 is the only thing that comes to mind about --

17 Q What was the context of that conversation?

18 A The context of that conversation was that
19 was an issue that I was working on that Mr. Nussbaum
20 wanted me to consider and he thought that there were
21 some materials in the file that might be helpful to
22 me.

1 Q Do you recall anything else about this
2 review process in Mr. Foster's office other than what
3 we have talked about so far?

4 A There is nothing else that comes to mind.

5 Q Once Mr. Nussbaum completed the review
6 process, did he say anything about what would happen
7 to the documents?

8 A When are we talking about?

9 Q That afternoon on the 22nd.

10 A You mean after the review was done? Is
11 that what you mean?

12 Q Yes. Did he say, the review is done, I'm
13 done and this is what I'm going to do with the
14 documents?

15 A Are you saying kind of while everybody is
16 present?

17 Q Correct.

18 A I don't recall a discussion of that with
19 everybody present other than -- let me back up,
20 because I do recall some items related to that.

21 First of all, with respect to the Foster
22 personal documents, that pile that I discussed

1 before, it was discussed with the law enforcement
2 personnel that that was going to be given to the
3 Fosters' personal lawyer, his personal effects and
4 his personal files. There was a little bit of
5 discussion with the FBI about this and that they
6 would then deal with the Fosters' personal lawyer
7 with regard to those documents.

8 Q What was the nature of the discussion with
9 the FBI?

10 A It was fairly brief. It was while they
11 were there. I remember Mr. Nussbaum saying we are
12 going to give these to Mr. Spafford, and then
13 somebody raised a question about that. Mr. Nussbaum
14 said, well, this way you can just deal with their
15 lawyer directly on it. And I believe Agent Salter
16 said, yes, yes, we will deal directly with their
17 lawyer on it. It was explained that's what was going
18 to be done with the Foster personal documents.

19 Q Did Mr. Spafford then take the personal
20 documents?

21 A Yes. Well, he took what fit into one box,
22 as I recall. There were more things. It included

1 things like pictures on the wall, family pictures and
2 other personal items. So, they didn't all fit into
3 one box. He took what fit into a box.

4 But, you know, I'm just a little concerned
5 because I'm not finishing my answers.

6 Q I'm sorry.

7 A You asked me about what else was said about
8 documents. With respect to the pile of documents
9 that people had expressed an interest in, I don't
10 remember if that was explicitly discussed at the end
11 of the review, but the entire premise of that pile
12 would be that those would be discussed and reviewed
13 separately, segregated for another time.

14 You asked me a general question, did I
15 remember anything else about the review. There is
16 one important point which hasn't come out, which is I
17 understood the purpose of this review was to try to
18 find a suicide note or an extortion note. It had a
19 very limited purpose and that that was the common
20 understanding of the purpose of the review.

21 Q You recall discussion of an extortion note,
22 though?

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1 A I do remember that that was something that
2 was referred to.

3 Q What context do recall an extortion note
4 coming up?

5 A I don't remember the exact context, but I
6 just remember that because like -- I don't remember
7 how much of this was expressed. I shouldn't get into
8 the understanding to the extent that I don't remember
9 what was expressed. I just remember that the purpose
10 was a suicide note or an extortion note, as I
11 understood it, and that that was the entire purpose
12 of the review.

13 That actually relates to some of the issues
14 that we were discussing earlier about privilege and
15 so on and the kind of balance of interest, because it
16 was understood by me to be everybody's understanding
17 that that was the limited specific purpose of the
18 review.

19 Q Did everyone leave Mr. Foster's office
20 after the review at the same time?

21 A I don't recall the details about who left
22 when.

1 Q Did you ever -- strike that.

2 Did you say anything to Mr. Nussbaum at any
3 time on July 22nd, 1993 about there being any
4 contents in Mr. Foster's briefcase?

5 A Not that I recall.

6 MR. ROMATOWSKI: Well, barring, of course,
7 what the record will reflect about what Mr. Nussbaum
8 found in the briefcase and all that. This question
9 has been asked and answered in the same, I think,
10 unhelpful form a number of times.

11 Just so it is clear, the record will
12 reflect there has been quite a discussion about what
13 was in the briefcase.

14 BY MR. GIUFFRA:

15 Q At the conclusion of the review, did you
16 ever say to Mr. Nussbaum that there were scraps of
17 paper in the bottom of Mr. Foster's briefcase?

18 A I don't remember anything like that. And I
19 think that I would recall that if I said that, but I
20 don't remember anything like that.

21 Q So, it would be your testimony that you did
22 not tell Mr. Nussbaum that there were scraps of paper

1 in the bottom of Mr. Foster's briefcase?

2 MR. ROMATOWSKI: Counsel, I think you got
3 his testimony on the point five or six times. Why
4 don't we allow this one more time and then I hope we
5 can move on, because all of our time is limited.

6 THE WITNESS: As I said, I don't recall
7 anything like that.

8 BY MR. GIUFFRA:

9 Q And you think that you would recall a
10 statement like that had you made it?

11 A The statement that you said, I think that I
12 would, but I don't recall anything like that.

13 Q So, is it fair to say that you did not say
14 to Mr. Nussbaum -- this is important.

15 MR. KRAVITZ: You have asked it like eight
16 times and you are mischaracterizing his testimony.
17 He said eight times he has no recollection of saying
18 that and he thinks he would remember it if he said
19 it. That's how he would answer it no matter how many
20 times you ask him.

21 BY MR. GIUFFRA:

22 Q Is that your testimony?

1 A Yes, that is my testimony. Just to be
2 clear, my testimony is what I previously testified
3 to, not the way you stated it. Your question is
4 ambiguous just now.

5 Q Do you know what happened to the documents
6 in Mr. Foster's office after the search?

7 A I know what happened to some of the
8 documents in Mr. Foster's office after the search.

9 Q And what happened to those documents?

10 A Well, they fall into different categories.
11 The documents that were set aside for further review
12 by law enforcement people, I was given those
13 documents or I took those documents I believe on July
14 22nd. It might have been at a later date, but I
15 believe it was on July 22nd. So those documents I
16 took to my office, and ultimately they were reviewed
17 by the Park Police on I believe it was Friday, July
18 30th.

19 Q Do you recall what those documents
20 consisted of?

21 A I think I went through them before, what
22 was in the pile, phone messages, calendars, phone

1 logs, a note with a person's name on it and the word
2 "photograph," if I remember correctly, or "photo."

3 Q When did you take those documents to your
4 office?

5 A As I indicated, I think it was on the
6 22nd. It may have been a later date. I'm not
7 entirely sure. I think it was on the 22nd.

8 Q Do you know anything about any other
9 removal of documents from Mr. Foster's office on the
10 22nd?

11 A Well, let's see. With respect to the
12 Clinton -- with respect to some of the personal
13 documents of the President and the First Lady, there
14 is a reference in my notes of July 22nd, after the
15 review of Mr. Nussbaum making a reference to that,
16 which says something like get Maggie, go through -- I
17 shouldn't characterize it exactly. There is a
18 reference to Maggie and to HRC/WJC stuff or personal
19 stuff or something along those lines, which I don't
20 have an independent recollection of.

21 I wasn't involved in the process at the
22 time of Ms. Williams taking the documents, and I

1 didn't know about that until December of '93. I knew
2 that some documents -- I learned that some documents
3 from Mr. Foster's office had gone to Williams &
4 Connolly. I learned that in August of '93, but I
5 didn't know very much about them. And then I learned
6 more about them in December of '93.

7 Q Do you know how the documents that went to
8 Williams & Connolly were identified?

9 A I'm not sure if I understand the question.

10 Q You have testified that there were three
11 piles of documents that Mr. Nussbaum created during
12 the course of his review; correct?

13 A Uh-huh.

14 Q You have also testified that none of those
15 piles was specifically denominated President and
16 First Lady's personal papers; correct?

17 A Uh-huh.

18 Q How was it determined that from the
19 universe of documents in Mr. Foster's office that
20 there were documents that should be denominated
21 President and First Lady's personal matters?

22 A I wasn't involved in the process. I'm not

1 familiar with it. I have heard Mr. Nussbaum or seen
2 descriptions where he said that he sorted documents
3 into those that related to Clinton personal and other
4 documents. The timing on exactly when he did that in
5 relation to the review isn't totally clear to me. In
6 terms of that process, that's the only thing that I
7 have seen or am aware of.

8 Q Is it your understanding that Mr. Nussbaum
9 performed this second review process?

10 A Well, my understanding is as I have stated,
11 just that I have seen references in which I think
12 Mr. Nussbaum said that he was involved in sorting
13 them into a pile of Clinton personal, although the
14 timing of exactly when he did that isn't totally
15 clear.

16 Q Do you believe it was after the review
17 process on July 22nd?

18 A My understanding is that it is after, but,
19 again, I wasn't involved in the underlying event. I
20 don't have anything to suggest that it was before the
21 review process.

22 Q Do you know whether this second review

1 process occurred on July 22nd?

2 A Well -- let's see. As best as it has been
3 able to be reconstructed, I understand that
4 Ms. Williams picked up the documents on July 22nd.
5 So, if it relates to that, it would have had to have
6 been done by then.

7 Q Did Mr. Nussbaum ever indicate to you when
8 he performed this review process?

9 A No.

10 Q Do you know whether anyone else was present
11 during the course of this review process to identify
12 the President and First Lady's personal papers that
13 were in Mr. Foster's office?

14 A Not with respect to -- no, I don't know
15 anything else about that particular review process.

16 Q What do you know about -- strike that.

17 Do you know whether any documents that were
18 contained in Mr. Foster's office were ever
19 transported to the White House residence?

20 A Yes, it is my understanding that they
21 were.

22 Q And what do you know about the

1 transportation of such documents to the White House
2 residence?

3 A Well, it was told by Maggie Williams that
4 she and what she described as a legal intern in the
5 counsel's office -- I later learned that I believe it
6 was Tom Castleton -- that they took some documents --
7 I don't remember whether it was a box or what -- over
8 to the residence.

9 Q Do you know why the documents were taken to
10 the residence?

11 A I don't know why they were taken to the
12 residence, no. I would just add, it was my
13 understanding Ms. Williams was putting them in a
14 place for safekeeping, that they were locked
15 someplace for safekeeping.

16 Q Do you know of any discussion with respect
17 to whether the President or First Lady needed to
18 review these documents?

19 A I don't know of any such discussion.

20 Q Do you know whether Mr. Nussbaum spoke to
21 the First Lady with regard to any documents that were
22 contained in Mr. Foster's office?

1 A I don't know.

2 Q But he never told you that he had spoken to
3 the First Lady?

4 A That's correct, not that I recall.

5 Q Did you ever speak to Mr. Castleton about
6 the transportation of the documents from Mr. Foster's
7 office to the White House residence?

8 A No.

9 Q Do you know anything about the
10 transportation of the documents from the White House
11 residence to Williams & Connolly?

12 A Yes.

13 Q What do you know about that subject?

14 A It is my understanding that a messenger
15 from Williams & Connolly came and picked up the
16 documents I believe on July 27th.

17 Q Do you know whether the documents were
18 picked up directly from the residence or whether they
19 were picked up from the counsel's office?

20 A I don't know for a fact. I have never
21 heard anything to indicate that it was from the
22 counsel's office, but I don't know for a fact.

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1 Q Do you know who from the counsel's office,
2 if anyone, was involved in making the arrangements
3 for the documents to be picked up by Williams &
4 Connolly?

5 A Nobody that I know of. I don't know how
6 those arrangements were made, whether they were made
7 by Ms. Williams herself, but I don't know of anybody
8 in the counsel's office who was involved in that.

9 Q Do you have any indication that the
10 arrangements were made by Ms. Williams?

11 A As I mentioned to you in connection with
12 press inquiries, I had a brief conversation with
13 Ms. Williams in December of '93. I'm trying to
14 recall whether she said that she made the
15 arrangement. She was familiar with the fact that a
16 messenger from Williams & Connolly had come for the
17 documents.

18 I don't know if in addition to that
19 familiarity she mentioned that she had been part of
20 the arrangements or not, but she was certainly
21 familiar with the arrangements.

22 Q Following the review on July 22nd, 1993, do

1 you know whether anyone from the Department of
2 Justice asked Mr. Nussbaum not to remove any
3 documents from Mr. Foster's office?

4 A Not that I know of.

5 Q Do you recall any discussion in which
6 Mr. Nussbaum said that the office could not remain
7 secure any longer?

8 A I remember Mr. Nussbaum generally saying
9 something about that the office was going to be open
10 now. I remember that I think he got the key from the
11 Secret Service at that time, and it was clear that
12 there was now going to be access to the office.

13 Q Beginning after the review on the 22nd?

14 A Right.

15 MR. ROMATOWSKI: You say it was clear.
16 Clear to whom?

17 THE WITNESS: Well, it was clear to me.

18 BY MR. GIUFFRA:

19 Q What is the basis for your understanding?

20 A I'm trying to recall. I believe that
21 there -- as I indicated, there was a statement by
22 Mr. Nussbaum, I believe, and also the fact that he

1 was getting the key from the Secret Service.

2 Q Did there come a time when a torn-up note
3 was discovered in the bottom of Mr. Foster's
4 briefcase?

5 A Well, there was a time when I was advised
6 that that had happened.

7 Q When was that?

8 A Tuesday, July 27th.

9 Q Who advised you of that discovery of the
10 note in the bottom of the briefcase?

11 A Steve Neuwirth and Bernie Nussbaum. It was
12 the night of Tuesday, July 27th. At that point, it
13 had been turned over to the authorities.

14 Q Did they advise you in person or by
15 telephone?

16 A In person.

17 Q In Mr. Nussbaum's office?

18 A Yes.

19 Q Do you recall whether anyone else was
20 present?

21 A I think it was just Mr. Nussbaum and
22 Mr. Neuwirth.

1 Q But you never -- did you ever see this
2 note?

3 A I saw -- I believe I saw a Xerox of the
4 pieces of it much later, in November or December of
5 1993.

6 Q You never got to see it when it was in its
7 original form at the counsel's office?

8 A That's correct.

9 MR. KRAVITZ: You mean in the original form
10 in which it was found?

11 BY MR. GIUFFRA:

12 Q Either in the original form in which it was
13 found or pieced together in Mr. Nussbaum's office.

14 A I never saw it in either original form.

15 Q When you learned of the discovery of the
16 note, what was your reaction?

17 A My reaction was surprise, both about the
18 discovery of the note and I was told the content of
19 it, and I reacted to the kind of pain and torment
20 that was obvious from the language in the note.

21 Q Did you indicate to Mr. Nussbaum in any way
22 that -- strike that.

1 Did you say anything to Mr. Nussbaum with
2 regard to why the note was not found during the
3 review Mr. Nussbaum conducted on the 22nd?

4 A I don't recall a discussion of that.

5 Q Did you have a discussion with Mr. Neuwirth
6 as to why the note was not found on the 22nd?

7 A I don't remember a discussion in those
8 terms. Let me just back up a minute. One of the
9 issues that was being discussed at the time, we had
10 reaction to the discovery of the writing of the
11 pieces of paper, to the kind of pain and torment that
12 was in it. There was anticipation that the writing
13 would be released at some point and that there might
14 be questions about it.

15 Mr. Nussbaum, I believe, had drafted in his
16 handwriting a possible statement about the discovery
17 of the writing that just related the circumstances,
18 certainly as I understood them and as Mr. Nussbaum
19 and Mr. Neuwirth understood them, which is that the
20 scraps of paper were discovered as the briefcase was
21 being placed into a box and packed up with
22 Mr. Foster's personal effects.

1 To the extent that that was part of
2 Mr. Nussbaum's draft statement and it was part of
3 subsequent draft statements and draft questions and
4 answers in the succeeding days, it was certainly
5 something that was included in those considerations.

6 Q Do you recall any discussion as to why
7 Mr. Nussbaum did not find the note when he reviewed
8 the briefcase?

9 A No, I don't remember a discussion along
10 those lines.

11 Q That would be with anyone?

12 A With anyone in what time period?

13 Q In the time period of July 26-27.

14 A Well, I didn't learn of it again until the
15 night of July 27, fairly late on that night.

16 Q In the July-August period 1993, do you
17 recall any discussion with anyone as to why
18 Mr. Nussbaum did not discover the note when he
19 reviewed the contents of Mr. Foster's briefcase on
20 July 22nd?

21 A If you put it as the July-August '93
22 context, by that time it became a big issue in the

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1 press. There was a lot of discussion in the press
2 about it. So, it was a question that was in the
3 newspapers a great deal. And also, the FBI had
4 interviewed people at the White House, including me,
5 and asked that question.

6 So if you include that within the realm of
7 people who talked about that issue, that certainly
8 was part of the FBI interview in that period.

9 Q Did Mr. Nussbaum ever say anything to you
10 about why he believes he didn't see the note?

11 A No. I mean, when I would hear Mr. Nussbaum
12 talk about it, he would just say that he hadn't seen
13 it in the briefcase. There was no elaborate
14 discussion of why. It was just he hadn't seen that.

15 Q Do you know whether anyone at the White
16 House had seen the scraps of paper prior to
17 Mr. Neuwirth?

18 A Prior to Mr. Neuwirth's --

19 Q Discovery.

20 A -- packing them on July 26th. Not to my
21 knowledge.

22 Q Do you recall any discussion of whether the

1 note was even in the briefcase when Mr. Nussbaum
2 reviewed the contents on the 22nd?

3 A You mean whether the pieces of paper were
4 in it on the 22nd? Is that what your question is?

5 Q Correct.

6 A As I say, at some point that started to
7 become an issue with a lot of speculation in the
8 press and so on, but beyond that, I never heard any
9 substantive discussion of that or anything to
10 indicate that that had been the case.

11 Q No one had any reason to believe that the
12 scraps of paper had not been in the bottom of the
13 briefcase?

14 MR. KRAVITZ: Objection.

15 THE WITNESS: I can't speak for no one.

16 MR. GIUFFRA: Well taken.

17 BY MR. GIUFFRA:

18 Q You have no reason -- no one ever indicated
19 anything to you that would lead you to believe that
20 the scraps of paper were not in the briefcase when
21 Mr. Nussbaum reviewed it?

22 A That's correct.

1 MR. GIUFFRA: Can we take a break?

2 MR. ROMATOWSKI: Sure.

3 (Recess.)

4 BY MR. GIUFFRA:

5 Q Mr. Sloan, you had been, along with
6 Mr. Neuwirth, one of the two associate counsel that
7 had been involved in the counsel's office response
8 with regard to Mr. Foster's death.

9 A I'm not sure what you are referring to when
10 you say the White House response with regard to
11 Mr. Foster's death.

12 Q With regard to the documents, you and
13 Mr. Neuwirth were the two counsel who were in the
14 office when the search went on; correct?

15 A That's correct.

16 Q And were there other counsel involved in
17 this process with regard to events occurring after
18 Mr. Foster's death?

19 A That's a broad term "with regard to events
20 occurring after Mr. Foster's death." There was
21 nobody else involved, that I recall, in the review of
22 documents in Mr. Foster's office on the 22nd or in

1 the interviews on the 22nd that we have discussed.

2 Q The suicide note was discovered on July 26?

3 A First of all, I don't know that I would
4 characterize it as a suicide note.

5 Q The Foster note.

6 A It is my understanding it was discovered on
7 July 26, that's correct.

8 Q And you were told on the 27th?

9 A That's correct.

10 Q Do you know why there was this delay in
11 advising you with regard to the discovery of this
12 note?

13 A I don't view it as a delay in advising me.

14 Q Do you know why you were not told sooner?

15 A I guess there was not a need to tell me
16 sooner.

17 Q Do you know whether the First Lady ever
18 looked at the scraps of paper that constituted the
19 Foster note?

20 A The original scraps of paper? I have no
21 knowledge of that.

22 Q Do you know whether she was ever invited to

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1 come to Mr. Nussbaum's office after the discovery of
2 the note?

3 A I have no knowledge of that.

4 Q Let me show you a document marked as FBI 36
5 and 37. This is a 302 interview.

6 MR. KRAVITZ: You mean a 302 memorandum of
7 an interview?

8 MR. GIUFFRA: Correct.

9 THE WITNESS: What would you like me to
10 do?

11 BY MR. GIUFFRA:

12 Q Do you recall speaking with this agent?

13 A The agent's name is blocked out.

14 Q Do you recall speaking with an agent on
15 July 30, 1993?

16 A Yes.

17 Q If you could just review that memorandum.
18 (Witness examined the document.)

19 Do you believe that this memorandum
20 accurately reflects what you told this FBI agent?

21 A I believe that the notes that I jotted down
22 after my conversation with the FBI agents is the most

1 accurate reflection of my recollection of the
2 interview.

3 Q Are there any statements in that memorandum
4 that you believe to be inaccurate?

5 MR. KRAVITZ: What do you mean by that? Do
6 you mean is there any part of FBI 36 and 37 that is
7 an inaccurate reflection of what Mr. Sloan said to
8 the FBI or is there anything in there that he may
9 have said that might have been inaccurate?

10 MR. GIUFFRA: Either one.

11 MR. ROMATOWSKI: I'm afraid if we are going
12 to do that, we are going to have to do this line by
13 line. Is there really any point to that?

14 BY MR. GIUFFRA:

15 Q Let me just direct you to two sentences.
16 "Sloan advised the interviewing agents that he
17 recalled when Bernard Nussbaum examined the contents
18 of Vincent Foster's briefcase, could not recall any
19 specific items which were located in the briefcase.
20 Sloan believed that all items were taken out of the
21 briefcase, however, he did not examine the empty
22 briefcase at that time."

1 A Again, my best recollection, both of the
2 events and of the interview, would be reflected in my
3 notes.

4 Q Do you think that is an accurate statement
5 of your recollection of the events?

6 A Can I have my notes to compare it to?

7 Q Sure.

8 MR. ROMATOWSKI: Counsel, there are a
9 couple of questions lingering here today. One is
10 what he recalls today as he sits here perhaps is not
11 as detailed as it was back then. If what you want is
12 the best record of his recollection at that time, he
13 has explained to you that it is in his notes.

14 Now, to ask him today whether or not all
15 the detail in this 302 is accurate --

16 MR. GIUFFRA: I have only asked him about
17 two sentences.

18 MR. ROMATOWSKI: I anticipate you are going
19 to go through more.

20 MR. GIUFFRA: No.

21 MR. ROMATOWSKI: The first question is does
22 he recall those details at all today, and if he has a

1 recollection on the particular points, then whether
2 or not his recollection is the same or different than
3 what is reflected in the 302. I don't want to lose
4 the point that when you call on his recollection
5 today, that is something different, perhaps, than
6 what his recollection was at that time.

7 THE WITNESS: That's correct. I have
8 outlined my recollection of the briefcase, which I
9 have very little independent recollection of. I have
10 indicated several times that my best recollection is
11 contained in my notes, which were made shortly after
12 that time.

13 Now, I could sit here and make a
14 comparison, but as counsel points out, what I have
15 said many times is what my recollection is.

16 BY MR. GIUFFRA:

17 Q The statement "Sloan believed that all
18 items were taken out of the briefcase," do you have
19 any reason to believe that that is inaccurate as you
20 sit here today?

21 MR. KRAVITZ: Bob, if you are going to read
22 something out of that document, you should at least

1 read the entire sentence.

2 MR. GIUFFRA: I have read the entire
3 sentence.

4 MR. KRAVITZ: You asked him about half the
5 sentence.

6 MR. ROMATOWSKI: We are handicapped by the
7 fact that you don't have a copy to leave in front of
8 the witness as you reading it to him.

9 BY MR. GIUFFRA:

10 Q Are these the notes you are referring to, Z
11 364 -- again, it is hard for me to know precisely
12 when your notes on this particular matter end -- Z
13 380?

14 A No, these are not the notes I'm referring
15 to.

16 MR. GIUFFRA: Off the record for a second.
17 (Discussion off the record.)

18 BY MR. GIUFFRA:

19 Q Mr. Sloan, your counsel has provided us
20 with a copy of a document which is a letter dated
21 July 1, 1994 from Clifford Sloan to Chairman Riegle
22 and Senator D'Amato. The letter attaches your notes

1 of this interview, a copy of those notes, handwritten
2 notes, and also a typewritten version of the
3 handwritten notes.

4 What we will do is we will mark the
5 document as Sloan 2.

6 (Sloan Exhibit 2 identified.)

7 BY MR. GIUFFRA:

8 Q Have you had a chance to review these
9 handwritten notes?

10 A When?

11 Q Prior to coming to the deposition. Do you
12 want to take another crack at them now?

13 A I am happy to read them now if you would
14 like me to.

15 Q Do you believe the notes accurately reflect
16 what you said to the FBI agent on the 30th?

17 A As I have said numerous times, I think that
18 the notes are my best recollection both of what I
19 said to the FBI agents and what I remember of the
20 events described therein.

21 Q Okay. Thank you.

22 What I would like to do is just go through

1 quickly some handwritten notes that I believe you
2 prepared. The difficulty that we have is that under
3 our confidentiality procedures, we are not able to
4 make copies of documents that we have received from
5 the White House. That's why you see this SHC, Senate
6 highly confidential.

7 What I propose to do is just to stand next
8 to you and we will just go through them very
9 quickly.

10 We will go by Bates number, because I also
11 don't know what is one document as opposed to a
12 number of them.

13 The first number bears Bates number Z 332.
14 If you could just read through the document and say
15 what you believe the notes to refer to.

16 A I think these notes are my notes when I was
17 talking to Maggie Williams in December of '93 about
18 the events in July -- in late July '93 and the
19 transportation of the documents and related issues.

20 Q Do you have a recollection as to why you
21 were speaking to Ms. Williams at that time?

22 A Yes. As I indicated before, the issue of

1 documents from Mr. Foster's office had become a
2 significant issue in the press at that time, and I
3 spoke to her with Deputy Counsel Joel Klein in an
4 effort to try to understand some of the facts.

5 Q If you could just read through the notes.
6 The first entry "called him before you put him in
7 closet."

8 A Those notes, I emphasize, were kind of
9 taken on the run and were kind of jottings. They are
10 more properly referred to as jottings. They
11 obviously contain some errors in transcription. They
12 were kind of quick and hasty, almost reminders to
13 myself, and there is obviously something wrong with
14 that statement. I think it probably --

15 Q Did I at least read it properly?

16 A Yes, it probably said something like --
17 called him before you put them in closet is probably
18 what it should say, something like that, but I'm not
19 100 percent certain. That is just my best
20 interpretation as I look at it now.

21 Q Do you recall who "him" refers to?

22 A Well -- I'm not sure. I'm not sure as I

1 look at that in the context.

2 Q The next line says "talked to Bob
3 Barnett."

4 A Yes.

5 Q Do you know what that refers to?

6 A Yes. Maggie indicated that she had talked
7 to Bob Barnett, who was an attorney at Williams &
8 Connolly in this time period.

9 Q And the next sentence?

10 A It says "called him Monday or Thursday."

11 Q Do you know the dates of the Monday or
12 Thursday?

13 A What that's referring to is Thursday, July
14 22nd or Monday, July 26th.

15 Q And the next line?

16 A It says "put it in safe." And then it says
17 dash "need to have somebody come over." I don't know
18 if there was a word left out, whether it should have
19 been "put it in safe place." I'm not certain. What
20 it says is "put it in safe" -- "need to have somebody
21 come over."

22 Q Do you know what that refers to?

1 A I believe, looking at it, that it refers to
2 putting the documents in a safe place, the documents
3 that were going to go to Williams & Connolly, and the
4 need to have somebody from Williams & Connolly come
5 over.

6 Q And the next reference?

7 A "Carolyn Huber going home."

8 Q Do you know what that refers to?

9 A I don't.

10 Q The next reference?

11 A It says "residence closet was always" it
12 appears there is a word left out there. I'm not
13 sure.

14 Q Do you know what this refers to?

15 A I remember generally in this period it is
16 my understanding that documents were locked in a
17 closet at the residence, if I understand correctly,
18 and I assume it is a reference to that.

19 Q Any indication of whether Ms. Huber was
20 involved in that process?

21 A I have a vague recollection that there was
22 something about access to the closet or something

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1 like that that Ms. Huber was involved in or was
2 responsible for, just as a general matter, but I
3 don't remember any more specifically than that.

4 Q The next page, which is 333.

5 A What?

6 Q Just go through them.

7 A "If Tuesday -- day that boxes." Again,
8 that's an incomplete reference. We were trying to
9 determine timing in the period, the timing of when
10 the documents had gone to Williams & Connolly. This
11 was some reference to trying to figure out that
12 timing.

13 MR. KRAVITZ: Can I just interrupt. I know
14 I'm not supposed to be asking the questions. I
15 assume the record is as unclear as my mind is. Do
16 these notes still relate to a conversation with
17 Maggie Williams or are these different?

18 THE WITNESS: These still relate to a
19 conversation with Maggie Williams.

20 BY MR. GIUFFRA:

21 Q When the notes don't refer to a
22 conversation with Maggie Williams, let us know.

1 A Okay.

2 MR. GIUFFRA: Neil, if during the course I
3 am doing this, pipe in with your question if I am
4 ambiguous.

5 BY MR. GIUFFRA:

6 Q The next reference?

7 A "Definitely called that day.

8 Q Do you know what that refers to?

9 A I think -- I'm not certain -- I think it is
10 a reference, these two lines together, if Tuesday was
11 the date that these two boxes went, she had
12 definitely called either Bob Barnett or Williams &
13 Connolly before that day.

14 Q Do you recall she ever indicated that she
15 spoke to the First Lady about moving the boxes to the
16 residence?

17 A Not that I recall.

18 Q The next line?

19 A It says "legal intern, Jonathan Kopp, dark
20 hair." As I mentioned previously, Ms. Williams said
21 that a legal intern with dark hair had helped her
22 move the documents. The thought that came to my mind

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1 was Jonathan Kopp, who had been a legal intern, but I
2 later discovered that was incorrect.

3 Q That Mr. Castleton was the individual?

4 A Yes.

5 Q The next entry?

6 A "Day that files were packed, called to
7 W&C."

8 Q What does that refer to?

9 A The day the files were packed, called
10 Williams & Connolly.

11 Q That Maggie Williams called Williams &
12 Connolly?

13 A Or at least there was a call to them.

14 Q The next reference?

15 A "Whatever day that we packed files, call
16 Bob Barnett." It is along the same lines. It again
17 relates to Ms. Williams.

18 Q Did she ever indicate to you when she
19 thought the files had been packed?

20 A When she thought they had been packed? I'm
21 not sure about that. The focus, as I recall, that we
22 were trying to establish was the day that she had

1 received them from the White House counsel's office
2 as well as the day that they were sent to Williams &
3 Connolly. These references were aids of trying to
4 determine those days. Those were the important days
5 we were trying to understand.

6 Q The next document, 335, I take it, no
7 longer refers to Ms. Williams?

8 A That's correct.

9 Q What is this document?

10 A This is a list of people from the Park
11 Police, the FBI and the Justice Department, and it is
12 either a list from the meeting on Wednesday, July
13 21st or a list from the meeting on Thursday, July
14 22nd.

15 Q 337.

16 A It is my -- these are notes of a
17 conversation with Bob Barnett.

18 Q That you had?

19 A That I had in August of 1993. I believe
20 that 336 or 337 are part of a two-page document.

21 Q Do you know what -- is there material
22 redacted -- on page 336 it says "Bob Barnett:" and

1 then there is nothing.

2 A It says "redacted" at the top of the page.

3 MR. GIUFFRA: Off the record.

4 (Discussion off the record.)

5 BY MR. GIUFFRA:

6 Q At the top of page 336, it indicates there
7 has been a redaction. Without revealing the
8 substance of the redaction, the material that has
9 been redacted, can you advise us as to generally what
10 the subject matter is?

11 MR. ROMATOWSKI: Counsel, as I mentioned
12 off the record, I think since it is a White House
13 production and it has been the White House decision
14 to redact this, we will have to direct your inquiry
15 to them. I don't think we are in a position to
16 comment beyond their decision that this is material
17 that is properly produced in this limited form.

18 BY MR. GIUFFRA:

19 Q Did you ever discuss with them the
20 redactions that have been made?

21 MR. ROMATOWSKI: That is out of bounds.
22 Per our instructions, Mr. Sloan is not to testify

1 about conversations with the White House counsel's
2 office regarding response to Congressional inquiries
3 or preparation for these hearings.

4 MR. GIUFFRA: And you are instructing him
5 not to answer such questions?

6 MR. ROMATOWSKI: It is my advice to him
7 that, as I understand his instructions, those
8 questions are to be deferred. That's right.

9 BY MR. GIUFFRA:

10 Q And you are not going to answer those
11 questions?

12 MR. KRAVITZ: I think you ought not to ask
13 those questions. I think there ought to be some kind
14 of civility between the Committee and the White
15 House. You know the White House has not agreed to
16 have those questions answered. I would hope that you
17 wouldn't just ask those questions so that the White
18 House would say we are not going to answer them.

19 MR. GIUFFRA: If he is not going to answer
20 the questions, it would be nice to get it on the
21 record that they are not going to answer the
22 question.

1 MR. KRAVITZ: It is on the record. I don't
2 know how much more clear it needs to be made.

3 BY MR. GIUFFRA:

4 Q The next document, 337.

5 A Just as I made clear, I think this is part
6 of the same document.

7 Q Okay. What does this refer to?

8 A This is a conversation with Bob Barnett in
9 August of '93. It says "half drawer of VF files,
10 personal, locked up, Maggie Williams, Michael Berman
11 or authorized representative." It has the
12 abbreviations "auth. rep." there.

13 Q Who is Michael Berman?

14 A He is former counsel to Vice President
15 Mondale who sometimes would advise the White House or
16 White House counsel's office about various issues.

17 Q Where does he presently work?

18 A I believe that he works at the Duberstein
19 Group.

20 Q And he is an attorney?

21 A Yes, I believe that Michael is an
22 attorney.

1 Q Do you know what his role was in connection
2 with the handling of the papers in Mr. Foster's
3 office?

4 A Nothing other than this reference, and I
5 have a vague recollection, though it may be
6 incorrect, that what this is a reference to is that
7 in connection with those files, these were the people
8 who were authorized to have contact with Williams &
9 Connolly about them or something like that. That may
10 be an incorrect understanding on my part, but that is
11 my impression in looking at it and based on my
12 recollection.

13 Q And they would be an authorized
14 representative of whom?

15 A I don't know beyond what is written there.

16 Q You know nothing more about Mr. Berman's
17 role in the matters that we are dealing with today?

18 A That's correct.

19 Q The notes 338 through 339, are they your
20 notes?

21 A Yes.

22 Q What do they reflect?

1 A They reflect notes of a conversation on
2 July 30th, 1993 in my office with -- I think there is
3 a reference to Captain Hume of the Park Police. I
4 mentioned earlier that members of the Park Police
5 came to my office to review the documents that had
6 been set aside in the pile in the review in
7 Mr. Foster's office. These are some notes of my
8 conversation with Captain Hume at that time.

9 MR. GIUFFRA: Off the record.

10 (Discussion off the record.)

11 BY MR. GIUFFRA:

12 Q Let's go through -- strike that.

13 So on July 30th, 1993, it says "Captain
14 Hume" and who is the other person?

15 A I think it says "meeting with Captain
16 Hume."

17 Q He came by himself?

18 A I think he came with somebody else, but I
19 don't have that person's name there.

20 Q They came to review what documents?

21 A The documents that had been set aside in
22 Mr. Foster's office for subsequent review by law

1 enforcement officials as expressed during the review
2 on July 22nd.

3 Q Whenever a law enforcement official during
4 the course of that review process indicated they
5 wanted the documents to be set aside, were they set
6 aside?

7 A To the best of my recollection.

8 Q Were all the documents that were set aside
9 then made available to the Park Police on July 30,
10 1993?

11 A To the best of my knowledge, they were.

12 Q Why don't we just roughly go through the
13 notes.

14 A These notes, I think all of them either
15 reflect questions that Captain Hume was asking,
16 either Captain Hume or his associate during that
17 period: "1, if close friends or associates or
18 families, could they bypass phone log?" We had phone
19 logs there, and he wanted to understand if the phone
20 log was comprehensive. "If so, would family members
21 and others be bypassed by log? If Lisa,"
22 et cetera -- that's a reference to Mr. Foster's

1 widow. "Phone logs for all calls or just messages?"

2 There is a reference which I added at some
3 later point which said "new CMS file Park Service
4 re: Vince Foster." I think these are the answers to
5 the questions. I called over to one of the
6 secretaries in Mr. Nussbaum's office to understand
7 how their phone system worked. It says "Vince
8 theoretically had a private number, not sure he was
9 told." This says "would be surprised if he had,
10 would have to look at phone the make sure."

11 Then there is some material crossed out.
12 It says "2, if there was such a number, wouldn't be
13 reflected on log, just messages, not complete
14 record. Betsy and Linda for Vince, family calls
15 would go on phone log. Called on rollover lines
16 6611."

17 And then these are references in the second
18 page here, which is Bates stamped number 339. There
19 are a few names which Captain Hume or his associate
20 mentioned in the course of reviewing the phone logs:
21 Brant Buck, attorney in Little Rock; Jim Lyons,
22 attorney in Denver; and those people here, Gordon

1 Rather and "Watkins, funeral bill."

2 Q Prior to Mr. Foster's death, were you aware
3 that he had been in contact with Mr. Lyons?

4 A I was not aware of that, to the best of my
5 recollection, before July 20th.

6 Q During your tenure at the White House
7 counsel's office, was Mr. Lyons a regular caller?
8 Did Mr. Lyons ever call persons in that office, other
9 than Mr. Foster on this occasion, that you are aware
10 of?

11 A I don't recall having any knowledge of
12 that, but I obviously wouldn't be in a position to
13 know the calls that people in the office would get.

14 Q These are documents bearing Bates numbers
15 356 to 363. What do these appear to be?

16 A These appear to be my notes of the
17 interviews of people in the office from the morning
18 of July 22nd.

19 Q At the top of page 361, what are these
20 references at the very top?

21 A Well, reading my writing it says "in the
22 office all morning." That is kind of crossed out a

1 little bit. Then it says again "in office all
2 morning, yes, except I left ceremony" which would
3 have been the Louis Freeh ceremony.

4 Q I see. I just couldn't read that.
5 (Pause.)

6 I would like to show you a document marked
7 as 364 through 380. What does this appear to be?

8 (Witness examined the document.)

9 A These are -- 364 through 377 are my notes
10 of the review in Mr. Foster's office. 378 through
11 380 are notes from after that period of time.

12 Q And then 340 through 355, what is that?

13 A This is a draft of a typed version of the
14 notes of the review, as well as two pages following
15 that time.

16 Q Why did you prepare the document bearing
17 Bates numbers 340 through 355?

18 A For ease of review. I think it is
19 technically out of bounds, but I will go ahead and
20 say it. It was for --

21 MR. ROMATOWSKI: It was for your
22 convenience. It was for the convenience of

1 investigators that would have a difficult time
2 reading Mr. Sloan's handwriting, and at counsel's
3 suggestion, we prepared and submitted for your ease
4 of review and those of others interested in these
5 matters in typed form, as best he could read his own
6 handwriting, the notes of the review in Mr. Foster's
7 office.

8 BY MR. GIUFFRA:

9 Q Now, in preparing -- we will just work with
10 the typed notes so we will be done much more
11 quickly. Is it your recollection that as Bernie
12 Nussbaum would identify an item in Mr. Foster's
13 office, you would attempt to write that down in your
14 notes?

15 A Well, as I indicated previously, I was
16 trying to write down the things he was saying or some
17 of the things that he was saying about the
18 documents.

19 Q This reference to burn bag on page 354,
20 what do you think that refers to?

21 A First of all, I think that is page 353.

22 Q I'm sorry. My mistake.

1 A The reference to burn bag, I don't have a
2 recollection beyond what is listed there.

3 Q Do you recall a burn bag being in the room
4 when the review was occurring?

5 A I actually don't have an independent
6 recollection of that. I have no reason to doubt the
7 statement in my notes, but I don't independently
8 recall it.

9 Q On page 354, there is a reference "get
10 Maggie, go through office, get HRC/WJC stuff."

11 What do you think that refers to?

12 A As I alluded to this previously in my
13 testimony, I believe that was a comment that
14 Mr. Nussbaum made.

15 Q What did that refer to to you?

16 A I don't have a recollection beyond what
17 that refers to. It said get ready to go through the
18 office and get HRC/WJC stuff. I wasn't involved in
19 that.

20 One point I do want to raise that occurred
21 to me earlier when we were talking about
22 Mr. Nussbaum's review of documents with respect to

1 Clinton personal documents and whether I knew
2 anything about that process, and one additional
3 thought that occurred to me is there was a time after
4 the review when I came back into Mr. Foster's office,
5 poked my head in, and Mr. Nussbaum was sitting behind
6 Mr. Foster's desk looking at documents and going
7 through documents.

8 I don't know specifically that he was
9 sorting them into Clinton personal documents. I
10 don't know if that was the process, but it occurred
11 to me as relevant to your inquiry.

12 Q Do you recall approximately when that
13 occurred?

14 A It would have been sometime after the
15 conclusion of the review and sometime in the
16 afternoon.

17 Q Did you say anything to Mr. Foster when you
18 poked your head into the office?

19 A Do you mean Mr. Nussbaum?

20 Q I mean Mr. Nussbaum. Excuse me.

21 A I talked to him briefly.

22 Q Do you recall anything about that

1 conversation?

2 A I remember Mr. Nussbaum asked me -- one
3 thing that I recall -- there may have been other
4 things as well. One thing I recall is Mr. Nussbaum
5 asked me if I thought that there was -- I don't
6 remember the exact words, but something like an
7 obligation to retain or maintain documents or what
8 the rules or procedures were, something like that. I
9 don't remember the exact words. It was something
10 like an obligation to retain or maintain documents.

11 I told him that I thought that all
12 documents should be retained. We were having a brief
13 discussion about that, and Mr. Neuwirth came in.
14 Mr. Neuwirth joined the conversation. Mr. Neuwirth
15 said something like that he thought that under the
16 Presidential Records Act, documents should be
17 preserved or retained. I said that I wasn't sure
18 about the Presidential Records Act, but I thought
19 that it was a good idea to retain all documents.

20 It was a fairly brief discussion. I left
21 at that point. It is my recollection that
22 Mr. Nussbaum and Mr. Neuwirth were still in the

1 office.

2 Q Do you recall Mr. Nussbaum saying anything?

3 A Beyond what I have indicated?

4 Q Yes. Did he say, for example, I agree with
5 that advice, we should retain copies of all the
6 records?

7 A I don't remember him saying that exactly.
8 I remember him kind of raising the question, and I
9 remember the comments that Mr. Neuwirth and I
10 related, but I don't remember anything else.

11 Q Do you recall whether that would have also
12 encompassed -- would that have only encompassed the
13 White House, official White House documents, or would
14 that have encompassed all the documents in
15 Mr. Foster's office?

16 A I don't think it was discussed at that
17 level of detail or precision. What I recall of the
18 conversation is at the level of generality that I
19 just related.

20 Q For example, on page Z345, it says in the
21 second line "people were looking at."

22 Would it be your best recollection that's

1 probably what Mr. Nussbaum said?

2 A Can I take a look at it?

3 (Witness examined the document.)

4 Yes. My best recollection is that I was
5 taking down things that Mr. Nussbaum was saying and
6 that that's what the notes reflect.

7 Q Do you know whether these notes reflect any
8 discussion of documents related to the President and
9 Mrs. Clinton's personal finances?

10 A May I see that?

11 Q Sure.

12 A I'm trying to remember the references. I
13 will just note a couple things. To some extent the
14 notes speak for themselves, but just things that
15 occurred to me. It says on the bottom of the first
16 page, which is page 340, "documents related to first
17 family re: trust, privileged advice."

18 It says -- there is a reference to the
19 first family on 352. I thought there was a more
20 explicit reference.

21 (Witness examined the document.)

22 On page 350, there is a reference toward

1 the bottom of the page "various investment matters
2 re: first family."

3 MR. ROMATOWSKI: Let me just mention,
4 Counsel, one thing. We have most recently been
5 working from a draft of this typed script of
6 Mr. Sloan's notes of the review in Mr. Foster's
7 office on July 22nd. I'm not quite sure why that
8 is. This appears to be a copy of a draft of that
9 instrument produced by the White House. You have
10 available to you the final form of this document.

11 I don't know whether this draft has any
12 omissions or so on that might bear on this, but I
13 would like to refer you also to the form of this
14 document I believe we produced last summer on behalf
15 of Mr. Sloan to you in its final form. There may be
16 additional or different references there.

17 MR. GIUFFRA: Off the record.

18 (Discussion off the record.)

19 MR. ROMATOWSKI: We will get out a copy of
20 the final form of this typed version of the notes and
21 see to it that another is provided to you directly.

22 MR. GIUFFRA: Thank you very much for your

250

1 cooperation.

2 BY MR. GIUFFRA:

3 Q Did you ever discuss with Mr. Nussbaum
4 whether he was aware that Mr. Foster worked on
5 matters relating to Whitewater Development
6 Corporation?

7 THE WITNESS: Could I hear the question
8 again.

9 (The reporter read the record as requested.)

10 MR. KRAVITZ: Do you mean as of the time of
11 Mr. Foster's death?

12 MR. GIUFFRA: Yes.

13 THE WITNESS: No, I had no such
14 conversations with Mr. Nussbaum.

15 MR. KRAVITZ: Can we talk about scheduling
16 for a minute. It is now almost 5:40. We have been
17 told by the witness's counsel that the witness has to
18 leave at 6:00. I have some questions that I would
19 like to ask this witness. You have been going since
20 9:30 this morning.

21 MR. GIUFFRA: Let me --

22 MR. KRAVITZ: I think there have been a lot

1 of statements made about how this is a bipartisan
2 investigation. I think you have had eight hours
3 minus lunch. There are now 22 minutes remaining
4 before this witness says he has to leave. We all
5 know how busy our schedule is between now and the
6 time of hearings.

7 MR. GIUFFRA: Let's go off the record.

8 (Recess.)

9 BY MR. GIUFFRA:

10 Q Z313 through -- Z312 through 313, is this a
11 document that you prepared?

12 A Yes.

13 Q And why was it prepared?

14 A I think this was prepared around January of
15 '94, and there seemed to be a great deal of
16 misinformation and misperception in the press about
17 what had gone on. This was related to an attempt to
18 clarify the facts.

19 Q And in preparing this document, did you
20 make inquiry of various persons at the White House?

21 A I don't think that I made inquiry
22 specifically for this document, no. The only inquiry

1 that I made in this connection that I recall is what
2 I previously testified about in what I think was
3 December '93 with Mr. Klein, but at this point I
4 didn't make any additional inquiries.

5 Q You describe on page 313 Mr. Nussbaum's
6 subsequent review. Do you know why he conducted that
7 review out of the presence of law enforcement
8 officials?

9 A No, I don't know, and I emphasize, this was
10 a draft which was intended to be circulated to
11 different people for their comment. I believe that
12 this paragraph was based on my understanding of
13 Mr. Nussbaum's subsequent statements about the
14 division of the piles, that he had put them into
15 three categories.

16 One thing I should add in the interest of
17 clarity, Mr. Nussbaum described these three
18 categories. These three categories did not exactly
19 correspond to the three categories that I remembered
20 from the review.

21 So, consistent with my recollection and
22 Mr. Nussbaum's statement, I think I put that it was a

1 subsequent review. I don't know if -- it may be that
2 in Mr. Nussbaum's mind -- and I'm not clear about
3 this -- that the way that he remembers the three
4 piles during the review is that these were the piles,
5 but that's not the way that I remember them. So I
6 may have been putting in my own assumption about this
7 subsequent review.

8 Q You previously testified today that
9 Mr. Nussbaum was in the office and he was reviewing
10 documents after the law enforcement officials had
11 left.

12 A He was looking at documents. I don't know
13 what "reviewing" connotes exactly. I saw him briefly
14 and he was looking at documents.

15 Q Do you know whether he was dividing
16 documents at that point into piles?

17 A I don't know.

18 Q This document bearing Bates numbers 331.

19 A This is a document -- Mr. Nussbaum I think
20 was going to be interviewed by somebody from the
21 press. I don't remember who. He told me a few
22 points that he wanted me to make and asked me

1 essentially to write them up for him and give them to
2 him as talking points. These are based on points
3 that Mr. Nussbaum wanted to make.

4 Q Insofar as you know, Mr. Nussbaum was aware
5 of Whitewater at the time of Mr. Foster's suicide?

6 A Well, I don't know exactly what you mean by
7 "aware of." I had no conversations with
8 Mr. Nussbaum about it before that time.

9 Q So, he never indicated to you that he was
10 aware of Whitewater? Because this document says "at
11 the time of Vince Foster's suicide, no special
12 thought was given to Whitewater," which would lead to
13 the implication that at least he was aware of
14 Whitewater.

15 A I think Mr. Nussbaum would be the best
16 person to ask about that.

17 Q This document is Z313, and I apologize,
18 this may be a number of documents but along the same
19 genre. It is through 329.

20 A Just to clarify, it is Z314 through 329.

21 The first two pages, 314 and 315, are
22 called "setting the record straight." It is an

1 attempt to respond to some of the misimpressions that
2 were widely being circulated in the press at that
3 time.

4 Q Did you prepare this document?

5 A I believe that I did.

6 Q Do you know at whose direction you prepared
7 the document?

8 A Well, I think either Mr. Nussbaum or
9 Mr. Klein or both. This was a period in which
10 Mr. Eggleston and I were both trying to prepare
11 documents that were responding to what we believed to
12 be misleading press statements.

13 Q 515 --

14 MR. ROMATOWSKI: I'm sorry. I'm a little
15 confused. You said that you believed either
16 Mr. Klein or Mr. Nussbaum prepared this?

17 THE WITNESS: No. Directed me to prepare
18 it.

19 MR. ROMATOWSKI: Pardon me.

20 BY MR. GIUFFRA:

21 Q 316, and keep going.

22 A 316 through 318 is an attempt to correct

1 the record regarding an ABC News story of February
2 4th, 1994, as the title indicates. It is fairly
3 self-explanatory.

4 Q Did you prepare this document?

5 A I believe that I did.

6 Q And again, at the direction of whom?

7 A I think this one at the direction of
8 Mr. Nussbaum.

9 Q And did he review that document after it
10 was prepared?

11 A This one he did, yes.

12 Q Did he have any comments on it while it was
13 being prepared?

14 A I don't recall particular comments. I
15 remember that he thought that the story which had
16 been broadcast was quite inaccurate.

17 Q On the document 314 through 315, did
18 Mr. Nussbaum review this document as far as you know?

19 A I don't recall whether he did or not.

20 Q Would you have sent a copy to Mr. Nussbaum?

21 A Probably.

22 Q Would these documents have been used by the

1 communications office?

2 A I'm not sure what the overall distribution
3 of these documents were. I don't think that they got
4 wide use, to be candid about it.

5 Q 319.

6 A This is again, an attempt to respond to a
7 false statement in a Washington Times story.

8 Q And you prepared this document?

9 A I believe that I did.

10 Q And would it have been reviewed by
11 Mr. Nussbaum?

12 A I think that it would. I don't have a
13 specific recollection of it being reviewed by him,
14 though.

15 Q 320 through 322, this is just a copy of the
16 same?

17 A I'm not sure if it is a copy or if it is a
18 different draft.

19 Q Maybe the final version, actually.

20 A I'm not sure.

21 Q If 312 says "draft" and this one doesn't
22 say "draft," would that lead you to believe that this

1 was the final copy?

2 A Possibly. It also might have gotten
3 dropped along the way and it was still a draft. I'm
4 not positive.

5 Q Do you know whether this document was shown
6 to Mr. Nussbaum?

7 A I believe that at least a draft of the
8 chronology along the way was shown to Mr. Nussbaum.
9 I don't think that that chronology was ever kind of
10 ultimately finalized actually, but I think that he
11 saw at least a draft of it.

12 Q Again, why was the chronology prepared?

13 A It was, again, to try to understand the
14 facts.

15 Q 323.

16 A This again relates to inaccuracies in news
17 reports. And 323 to 324, I'm not entirely certain,
18 but I believe this document was prepared by
19 Mr. Eggleston. It says "draft 12/22." My estimate
20 of January of '94 might be off by a little bit.

21 Q You believe Mr. Eggleston prepared this?

22 A Yes.

1 Q 330?

2 A I believe that I prepared that.

3 Q And 325 through 326?

4 A I believe that I prepared that, or at least
5 parts of it. It might have been that Mr. Eggleston
6 was contributing parts of it. 327 to 329, this looks
7 like either the same copy or a different draft of the
8 ABC News memo.

9 Q The document bearing Bates numbers 433 to
10 440, what does this appear to be?

11 (Witness examined the document.)

12 A This appears to be drafts of possible
13 statements about the discovery of the writing in
14 Mr. Foster's briefcase, as well as drafts of
15 questions and answers about that discovery.

16 Q Do you know who would have prepared this
17 document?

18 A I believe that I prepared this. The
19 statement was based on a draft that Mr. Nussbaum gave
20 me, a written draft. Both the statement and the
21 question and answers would reflect comments that
22 other people made after reviewing it as well.

1 Q This was used by the press office to
2 respond to inquiries?

3 A I think that it was not, actually. I think
4 that this was done within a day or two afterwards. I
5 think at the request of the Justice Department and
6 Park Police, it turned out that the writing was not
7 released for another couple of weeks after that
8 time.

9 Q And 294 through 311, this is the end. Is
10 this your handwriting or Mr. Nussbaum's handwriting
11 on 294?

12 A The handwriting is Mr. Nussbaum's.

13 Q And you prepared the first draft?

14 A As I indicated, I believe Mr. Nussbaum gave
15 me a handwritten draft which I then typed up and then
16 further marked it up.

17 Q Would this be the document bearing Bates
18 number 304? Is that Mr. Nussbaum's handwriting?

19 A That is. That is not the document that I'm
20 referring to where he drafted the proposed
21 statement.

22 Q Might that be the document 310?

1 A 310 is that document.

2 Q And the documents bearing --

3 A Let me make absolutely sure. Yes, I
4 believe that's correct. That's what I understand 310
5 to be.

6 Q The documents then bearing 294 through 311,
7 311, is that your handwriting?

8 A Yes.

9 Q This is an attempt to prepare this
10 statement and some questions basically reflecting
11 work by both you and Mr. Nussbaum?

12 A Yes. I believe on 299 it reflects
13 Mr. Neuwirth's handwriting, I believe, as well. As I
14 say, it was circulated. There were other people who
15 looked at it besides me and Mr. Nussbaum. It
16 reflected further drafts.

17 MR. GIUFFRA: I have no further questions.
18 I apologize for taking so long.

19 EXAMINATION

20 BY MR. KRAVITZ:

21 Q Mr. Sloan, Mr. Giuffra asked you a lot of
22 questions earlier this morning about contacts that

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1 you may or may not have been aware of between people
2 in the White House counsel's office and Maggie
3 Williams during the time period that you were an
4 associate counsel to the President. Are you aware of
5 any special or unusually close relationship between
6 anyone in the White House counsel's office and
7 Ms. Williams during that time period?

8 A I'm not aware of any special or unusually
9 close relationship. I think she is somebody who is
10 well respected and well liked, is my impression, by
11 people in the White House, including people in the
12 White House counsel's office.

13 Q You also testified that on a relatively
14 small number of instances, you observed Ms. Williams
15 in the White House counsel's office suite. Was
16 Ms. Williams the only assistant to the President you
17 ever observed in the White House counsel's office
18 suite?

19 A No.

20 Q Was it unusual for assistants to the
21 President to be present in the White House counsel's
22 office suite?

1 A Not at all.

2 Q You testified that late on the night of
3 July 20, 1993, I believe you said a rough estimate
4 was around 11:00 p.m., Mr. Nussbaum called you at
5 home and informed you of Mr. Foster's death; is that
6 correct?

7 A That's correct.

8 Q Did Mr. Nussbaum indicate to you where he
9 was when he made that telephone call?

10 A Not that I recall. My assumption was that
11 he was in the office, but I don't know whether that
12 assumption was based on some comment of his or just
13 an assumption that I had.

14 Q When you say "the office," are you
15 referring to Mr. Nussbaum's personal office within
16 the White House counsel's office suite?

17 A Yes, that's my assumption, yes.

18 Q Have you ever discussed with Mr. Nussbaum
19 where he was when he made that telephone call to you
20 on the night of July 20th?

21 A Not that I recall. I do remember talking
22 to Mr. Nussbaum about the fact that there was some

1 confusion at some point about how long people had
2 been in Mr. Foster's office, and according to certain
3 logs, there was some reference about how long the
4 office was open.

5 One thing that I talked to Mr. Nussbaum
6 about was that the logs couldn't shed light on that
7 because the logs would just reflect, as I understood
8 it, that the counsel's office suite was open,
9 including Mr. Nussbaum's office. I think in that
10 context, as we might have mentioned it, Mr. Nussbaum
11 was calling people and was in his office doing
12 various things like that. That's the only
13 conversation related to that that I can think of.

14 Q What did Mr. Nussbaum's emotional condition
15 appear to be or appear to you to be when you spoke
16 with him over the telephone on the night of July 20,
17 1993?

18 A Extremely sad, upset, devastated, and not
19 only on that night, but in the succeeding days. That
20 was true of everybody who knew Mr. Foster.

21 Q When you say "in the succeeding days," are
22 you including July 21 and July 22, 1993?

1 A Yes.

2 Q You testified earlier about a telephone
3 conversation you had with Craig Livingstone in May or
4 June of 1994 regarding some questions that
5 Mr. Livingstone said he had been asked by
6 representatives of the Office of Independent Counsel;
7 is that right?

8 A Yes.

9 Q I believe you testified that
10 Mr. Livingstone asked you if you remembered being
11 with him when a box was carried out of the White
12 House or the west wing at some time before July of
13 1993; is that right?

14 A I think it was before, and one of the parts
15 of the conversation that bolsters me in that thinking
16 is that he asked me when I began in the White House
17 counsel's office. I don't remember whether he also
18 made some reference to the fact that it could have
19 been after that time. He was quite clear in his mind
20 he was not talking about the events of July 21st.

21 Q What do you remember about what
22 Mr. Livingstone told you about this previous event?

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1 A I'm sorry? Which previous event?

2 Q The event that he was asking you whether
3 you remembered.

4 A He just said that I might have been with
5 him or we might have carried a box together in that
6 period, that he might have helped me carry a box or
7 something like that. He was asking me if I
8 remembered anything like that.

9 Q Did Mr. Livingstone's telephone call to you
10 ring a bell in any way, remind you of anything?

11 A With respect to an event of carrying a box
12 with Mr. Livingstone, no.

13 Q Has your memory ever been refreshed with
14 regard to your being with Mr. Livingstone at some
15 time before July 1993 and one or both of you removing
16 a box from the White House?

17 A There is nothing that I recall along those
18 lines.

19 Q One thing you are clear of is that when you
20 spoke with Mr. Livingstone in May or June of 1994,
21 Mr. Livingstone told you that he did not carry a box
22 out of the west wing of the White House on the

1 morning of July 21, 1993?

2 A That's my recollection.

3 Q You testified about what you described as a
4 time-sensitive, trust-related document that came to
5 your attention or was brought to your attention at
6 some point, I believe you said, on either July 21st
7 or July 22nd, 1993; is that right?

8 A Yes.

9 Q Who brought the existence of that document,
10 that trust-related document to your attention?

11 A Either Mr. Nussbaum or Mr. Neuwirth or
12 both.

13 Q Do you know who had brought the existence
14 of that trust-related document to the attention of
15 Mr. Nussbaum or Mr. Neuwirth?

16 A I don't know offhand, no.

17 Q What was your understanding at the time
18 that the existence of this document was brought to
19 your attention as to when it was that the document
20 had to be either signed or executed?

21 A Imminently, but I don't remember more
22 specifically than that.

1 Q Did you ever see this trust-related
2 document?

3 A Not that I recall.

4 Q Do you know whether it was part of the
5 materials that were transported to the White House
6 residence on July 22nd, 1993?

7 A I don't know. The only thing I can say
8 based on what I do know is that I would think not, at
9 least the original of it, because it was my sense
10 that it had to be executed quickly. My understanding
11 of the documents that went to the White House
12 residence were that they were locked in the closet.
13 Nobody ever made a point that one document was taken
14 out and dealt with.

15 But that might have occurred. I'm just
16 saying I don't have a basis for making that
17 conclusion.

18 Q Do you know any specifics about what this
19 document dealt with?

20 A I think -- I think there has been a fair
21 amount of publicity to the trust. I am not
22 particularly well versed in exactly what I was. I

1 think they just set up a blind trust at the time. It
2 has been a reported fact that the trust was set up
3 and the timing of executing the trust and so on,
4 that's all that was in the press release.

5 Q Your understanding is that the document
6 needed to be signed or executed by either President
7 or Mrs. Clinton?

8 A I believe that's right, or -- well, let me
9 just back up and not say something too quickly.
10 Because in terms of the timeliness, I think that's
11 right, but there also might have been an issue about
12 when it had to be filed with a government agency in
13 order to be in compliance with some requirements.
14 So, I'm very hazy on exactly what the cause of the
15 imminence was. I shouldn't be too quick to assume
16 that that's what it was.

17 Q I want to direct your attention to the
18 review of the contents of the documents in
19 Mr. Foster's office that took place in front of law
20 enforcement officials on July 22nd.

21 You testified, I believe, that it was clear
22 or had been made clear to the law enforcement

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1 officials who were present during that review that as
2 Mr. Nussbaum went through the items in Mr. Foster's
3 office, they could identify any items that they
4 wished to have set aside so that they could review at
5 a later time; is that right?

6 A Yes.

7 Q How was it made clear to the law
8 enforcement officials who were present at that office
9 review that they could identify any document they
10 wanted and ask that it be set aside for their
11 subsequent review?

12 A I don't recall whether it was explicitly
13 discussed at the beginning. It became clear very
14 quickly, because different people in the room would
15 say -- I think it was different people in the room
16 would say "we would like to see that," and it would
17 be put aside. There was never any limit placed on
18 that.

19 There may well have been a more explicit
20 discussion of that. I just don't recall it offhand.

21 Q Do you remember anyone, any of the law
22 enforcement officials in particular by name who may

1 have said "I want that to be set aside," referring to
2 a document or file?

3 A I have a vague recollection that
4 Mr. Margolis was involved in doing that. Now, I
5 don't know if he was saying it on behalf of others as
6 kind of the senior person in the room on behalf of
7 the law enforcement personnel, but I have a vague
8 recollection of Mr. Margolis doing that.

9 Q Do you have any recollection of any of the
10 Park Police or FBI officers asking that the
11 particular items be set aside for the review?

12 A I don't have a clear recollection of that
13 one way or the other.

14 Q It is your recollection that every single
15 item that anyone requested be set aside was, in fact,
16 set aside and put in a separate pile?

17 A To the best of my recollection and the best
18 of my knowledge, that's correct.

19 Q And you took that entire pile to your
20 office at some point on July 22nd?

21 A Yes, I believe it was on July 22nd. I'm
22 virtually certain that it was. I can't actually

1 remember the act of doing it on July 22nd. I believe
2 that's correct.

3 Q Whenever it was that you took those items
4 from Mr. Foster's office to your office, did you take
5 every single item that had been requested to be set
6 aside for possible subsequent review by law
7 enforcement officials?

8 A To the best of my knowledge, yes.

9 Q And when you met with Captain Hume and
10 another official from the United States Park Police
11 in your office on July 30th, 1993, did you show the
12 Park Police officials everything that had been in
13 that pile of items set aside for subsequent law
14 enforcement review?

15 A Yes.

16 Q Nothing was removed from that pile?

17 A That's correct.

18 Q And so, it is your testimony that the law
19 enforcement officials, at least as of July 30th,
20 1993, had had an opportunity to review every single
21 item that they requested on July 22nd; that they
22 would be allowed to review?

1 A That's correct, that they had requested to
2 be set aside in the pile for further review. That's
3 right.

4 Q Was that consistent with your instructions
5 from Mr. Nussbaum or anyone else?

6 A Yes, it was consistent with my instructions
7 from Mr. Nussbaum.

8 Q Did you also give the Park Police officers
9 an opportunity to make copies of any of the items you
10 shared with them on July 30th?

11 A Yes, they requested copies of a couple of
12 pages I think of the phone logs, if I remember
13 correctly, in particular, and they were allowed to
14 make copies of them.

15 Q Did you deny the Park Police the
16 opportunity to make copies of any materials they
17 asked to make copies of?

18 A No.

19 Q You testified that at some point after your
20 little back and forth with Agent Salter during the
21 office review on July 22nd that your back and forth
22 became a subject of some kidding?

1 A Yes.

2 Q Can you tell us what you mean by that.

3 A Well, if anybody moved in the room,
4 somebody would say, oh, you are not moving to look at
5 the documents, are you, or something like that, I
6 think possibly including me when I moved, but not
7 only me. So there was a little bit of kind of
8 kidding back and forth about that. There might have
9 been some other comments, but that certainly was an
10 example of it.

11 Q Who participated in that kidding back and
12 forth?

13 A I don't remember in particular, but
14 certainly the law enforcement people in the room, it
15 was my impression, did.

16 Q Mr. Giuffra showed you earlier your notes
17 from the review of the contents of Mr. Foster's
18 office on July 22nd, 1993. Just for the record, they
19 were marked as Z364 through 377. Those are your
20 handwritten notes. Then you also were shown Z340
21 through 355, which was a typewritten version of those
22 handwritten notes.

1 I believe you testified that those were
2 based on what Mr. Nussbaum said during the review of
3 the contents of Mr. Foster's office on July 22nd;
4 is that right?

5 A That's correct.

6 Q By that you mean things that Mr. Nussbaum
7 said aloud, not just to you, but in a way that
8 everyone present in the room could hear?

9 A That's correct.

10 Q Were any of your notes in Z 364 through 377
11 based on your visual observation of any of the
12 documents as opposed to being based on what
13 Mr. Nussbaum said aloud?

14 A No. To the best of my recollection, they
15 were all based on what Mr. Nussbaum said aloud.

16 Q So everything that appears in Z 364 through
17 377, your notes, is based on statements or comments
18 that everyone present during the office search was in
19 a position to hear Mr. Nussbaum make?

20 A That's correct.

21 Q I'm going to show you -- this is actually
22 my last set of questions. I'm paying attention to

1 the time.

2 A Thanks. I appreciate that.

3 Q I'm going to show you again Z 340 through
4 355, which you have identified as a typewritten
5 version of your handwritten notes from the July 22nd
6 office review. I want to direct your attention to
7 page 353, where it says "burn bag" and then has six
8 additional entries under "burn bag." Do you see
9 where I am indicating?

10 A Yes.

11 Q What do those six entries under the title
12 "burn bag" indicate to you about what Mr. Nussbaum
13 may have done with regard to a burn bag during the
14 office review?

15 A You know, with this I would like to look at
16 my handwritten notes.

17 Q Okay, I'm going to give you 364 through
18 380.

19 A Well, I'm not certain whether these topics
20 relate to -- whether these entries under "burn bag"
21 relate to the burn bag itself or are separate topics,
22 if that's the thrust of your question. I'm not sure

1 by looking at them and I don't have any independent
2 recollection.

3 Q So, in other words, looking at your
4 handwritten notes doesn't clarify this for you?

5 A No, it doesn't.

6 MR. KRAVITZ: That's all I have. Thanks.

7 MR. GIUFFRA: Do you have any other
8 questions? I want to make sure that there are no
9 further questions.

10 MR. KRAVITZ: I have no further questions.

11 MR. GIUFFRA: Okay. No questions.

12 Thank you very much for coming. We very
13 much appreciate your cooperation. We would ask that
14 you keep the substance of your testimony confidential
15 until the hearings. As we discussed before, we will
16 make the transcript available four days before the
17 start of the hearings, which will be the 14th of
18 July. You will get a copy of your deposition prior
19 to -- four days prior to any public testimony.

20 MR. ROMATOWSKI: Okay. Fine.

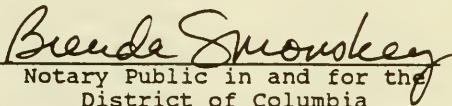
21 (Whereupon, at 6:15 p.m., the deposition
22 was concluded.)

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2 -----
3 CLIFFORD M. SLOAN
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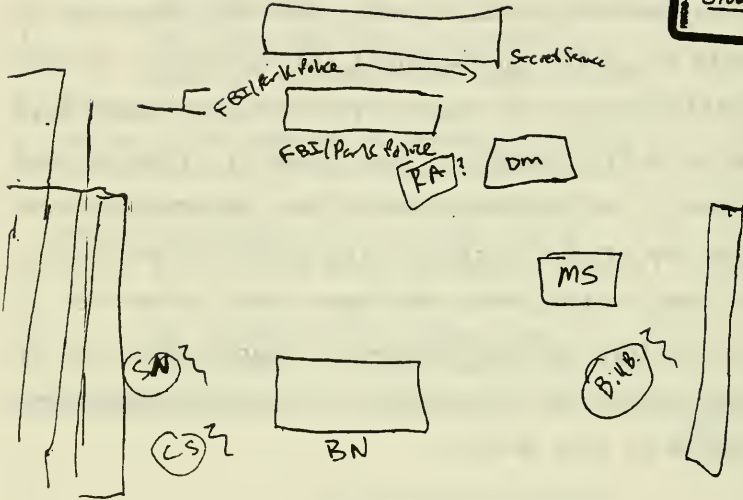
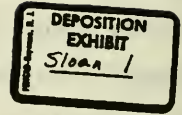
CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires APRIL 14, 1996



THE WHITE HOUSE
WASHINGTON

July 1, 1994

Hon. Donald W. Riegle, Jr.
Chairman
Hon. Alfonse M. D'Amato
Ranking Member
Committee on Banking, Housing and
Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510-6075

Attention: Kelly Cordes, Chief Clerk

Dear Sirs:

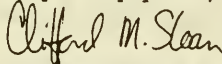
This letter is to respond to your June 22, 1994 letter request for certain records in preparation for the hearings directed by Senate Resolution 229.

As page two of your letter anticipates, I have provided records responsive to your request to officials in the White House Counsel's office. I do not have a list of all of these documents, but I have been assured that all such documents responsive to your request will be produced by the White House in accordance with understandings reached between the Committee and the White House.

Beyond this, I have enclosed with this letter a copy of my personal notes summarizing my interview with the FBI on Friday, July 30, 1993, Bates stamped 300,000 - 300,003. For convenience, I have also enclosed a typed version of these notes, Bates stamped 400,000 - 400,003.

If you have further questions, please do not hesitate to call.

Very truly yours,



Clifford M. Sloan
Associate Counsel to the President

7131193

1:00 p.m.

The FBI interviewed us on Friday, Jan. 30.

They began by asking me to describe everything I had done since the murder. I described Bernie's phone call to me on Tuesday night. I described the situation on Wednesday when we were huddled in Bernie's office, including the President's stopping by to console us. I also described the President's condolences to the staff. Then on Wednesday we met with the Park Police, the FBI, and the SS.

On Thursday, the Park Police and the FBI interviewed the secretaries. In the afternoon, Bernie reviewed the files in his office in the presence of me, Steve, Bill Burton, Michael Spafford, 2 DOS lawyers (David Margolis; Roger Adams), 2 FBI agents, 2 Park Police, and 2 Secret Service agents. ■ 300000

They questioned me extensively about the briefcase.

I explained that Berni had taken the file out - I was not sure whether it was in file folder or not. The briefcase was relatively new and was not bulky. I cannot remember exactly whether I looked in the briefcase or not, but I did recall

that it was empty because I thought it was a good effort ~~to~~ which could have been said to Jim (him).

The FBI agents expressed some skepticism that I ~~did~~ ^{would} not

have seen anything in the briefcase. But I told them that

was, as related above.

I explained that, on Friday, I was at the fuel.

Early Saturday, I left for the beach. Monday and Tuesday,

I worked on the Fresh Carpet and other notes.

I found out about the note for the first time on Tuesday night after it had been turned over to

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authorities. They asked me if I knew the substance
 of conversations about whether to turn it over, including
 whether it should not be turned over because it had
 damaging value. I told them I ~~had~~ didn't know the
 substance of those conversations, wasn't a part of them,
 had only heard ~~about~~ vague fragments or rumors.
 They asked me if I knew any other persons to
 whom events, and I said No. They asked me
 if I knew any other notes. I responded that I
 understood we were looking for source notes or contacts/
 background notes, and I knew of no other such notes.
~~John~~ explained that I had not personally
 reviewed every document in Vince's files.

One of the agents expressed skepticism about my not

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Knowing until Tuesday night because he thought he would
 would have travelled quickly. I suspected that I
 did not find the envelope and that, in any case, it was
 what had happened. Another good expression Stephen
 that, I had been written slowly before he left,
 it would have been at the bottom of his briefcase
 under a rubbery folder. I expect that it was
 foreign to speculate, that I did not know when the
 note was written, and that, at any rate, I felt it
 conceivable. I like to say, and I hope you will
 I gave all ^{and in} ~~last~~ ⁱⁿ the next day.

Typed version of handwritten
notes of Clifford M. Sloan
Page 1 of 4

"1:00 pm

"7/31/93

"The FBI interviewed me on Friday, Jan. 30.[sic]

"They began by asking me to describe everything I had done since the suicide. I described Bernie's phone call to me on Tuesday night. I described the situation on Wednesday, when we were huddled in Bernie's office, including the President's stopping by to console us. I also described the President's condolences to the staff. Then on Wednesday we met with the Park Police, the FBI, and DOJ.

"On Thursday, the Park Police and the FBI interviewed the secretaries. In the afternoon, Bernie reviewed the files in Vince's office in the presence of me, Steve, Bill Burton, Michael Spafford, 2 DOJ lawyers (David Margolis and Roger Adams), 2 FBI agents, 2 Park Police, and 2 Secret Service agents.

Typed version of handwritten
notes of Clifford M. Sloan
Page 2 of 4

"They questioned me extensively about the briefcase. I explained that Bernie had taken some files out -- I was not sure whether they were in file folders or not. The briefcase was relatively thin and was not bulging. I cannot remember exactly whether I looked in the briefcase or not, but I think I recall thinking it was empty because I thought it was a personal effect (which could have been sent to Jim Hamilton). The FBI agents expressed some skepticism that I would not have seen anything in the briefcase. But I told them the truth, as related above.

"I explained that, on Friday, I was at the funeral. Early Saturday, I left for the beach. Monday and Tuesday, I worked on the Freeh Confirmation and other matters. I found out about the note for the first time on Tuesday night after it had been turned over to

Typed version of handwritten
notes of Clifford M. Sloan
Page 3 of 4

authorities. They asked me if I knew the substance of conversations about whether to turn it over, including whether it should not be turned over because it had damaging material. I told them I didn't know the substance of those conversations, wasn't a party to them, had only heard vague fragments or references. They asked me if I knew any other version of these events, and I said no. They asked me if I knew of any other notes. I responded that I understood we were looking for suicide notes or extortion/blackmail notes, and I knew of no other such notes. I also explained that I had not personally reviewed every document in Vince's office.

"One of the agents expressed skepticism about my not

Typed version of handwritten
notes of Clifford M. Sloan
Page 4 of 4

knowing until Tuesday night because he thought the news would have travelled quickly. I responded that I did not find it unusual and that, in any event, it was what had happened. Another agent expressed skepticism that, if it had been written shortly before his death, it would have been at the bottom of his briefcase under a number of files. I explained that it was forcing me to speculate, that I did not know when the note was written, and that, at any rate, I find it conceivable. I take everything out of my briefcase when I go home and put it back in the next day."

**DEPOSITION OF MARGARET ANN WILLIAMS
IN RE: S. RES. 120**

FRIDAY, JULY 7, 1995

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.**

Deposition of MARGARET ANN WILLIAMS, called for examination pursuant to notice of deposition, at 9:30 a.m. in Room 640-A of the Hart Senate Office Building, before LORI J. SEGNERI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL CHERTOFF, Esq.

Majority Special Counsel

JAMES B. COMEY, Esq.

Majority Deputy Special Counsel

RICHARD BEN-VENISTE, Esq.

Minority Special Counsel

GLENN F. IVEY, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

THOMAS B. GRIFFITH, Esq.

Deputy Senate Legal Counsel

Office of Legal Counsel

U.S. Senate

Room 642, Hart Building

Washington, DC

JOHN C. DODDS, Esq.

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, Pennsylvania 19103-6993

On behalf of the Deponent.

**ALSO PRESENT: NGUYEN-HONG HOANG
VINCENZO A. DELEO**

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P R O C E E D I N G S

Whereupon,

MARGARET A. WILLIAMS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CHERTOFF:

Q Ms. Williams, before we begin I'm just going to give you some preliminary information about the nature of this proceeding. My name is Michael Chertoff; I'm the Majority counsel, special counsel in this proceeding. Richard Ben-Veniste is, I guess, the principal special counsel on the Minority side. I have with me Vincent DeLeo and James Comey, who are also working with me on this matter.

This is a deposition conducted pursuant to Senate Resolution 120, which establishes a special committee to conduct an investigation involving Whitewater Development Corporation and certain other related matters pursuant to Section 1.B.1 of that resolution. It is authorized to conduct "an investigation and public hearings into whether or not

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improper conduct occurred regarding the way in which White House officials handled documents in the office of Vincent Foster following his death." And that's the subject that's going to be the focus of today's deposition.

Let me ask you how you learned about our request to have you testify at the deposition today.

A You sent a letter to my counsel, I believe.

Q And in connection with your coming to testify today, did you collect any documents to be furnished to us?

A Yes, my lawyer did.

MR. DODDS: Mr. Chertoff, maybe I can help on that point. We received through the Office of White House Counsel what we understood to be your request or the Committee's request for documents. I worked with members of Ms. Williams's staff to gather whatever records were called for. Those documents were furnished to the Office of White House Counsel and then, by an understanding that we had with them, and we thought they had with you, those documents were produced to the Office of White House Counsel.

1 And I worked with members of Ms. Williams's staff.

2 BY MR. CHERTOFF:

3 Q Are there any documents in your personal
4 possession, diaries or notes or anything of that sort
5 that you didn't furnish to the White House in
6 response to this request for documents?

7 A No.

8 Q Let me --

9 (Discussion off the record.)

10 BY MR. CHERTOFF:

11 Q All right. Let me advise you that this
12 deposition is in anticipation of a public hearing to
13 be held starting this month on, probably on July
14 18th, and there's a -- I think a fair likelihood that
15 you'll be asked to testify at the hearing.

16 Now, during the course of the deposition,
17 you'll be asked questions which you're obviously
18 obliged to answer under oath. If you don't
19 understand the question, please let me know, and I'll
20 rephrase it. Likewise, please don't speculate or
21 guess unless I ask you to speculate or guess.

22 The stenographer is going to prepare a

1 record of questions and answers. That transcript is
2 going to be kept committee confidential until the
3 hearings. But I have to advise you that once the
4 hearings begin, some or all of that transcript may
5 become public. And probably in due course all of it
6 will become public. Four days before the hearings
7 are scheduled to begin, we will make a copy of the
8 transcript available at the Senate for you to review
9 and make corrections on it. But I have to tell you
10 that if you make corrections that are other than
11 ministerial or clerical corrections, those changes
12 themselves could become the subject of further
13 deposition.

14 If you are called to testify as a witness,
15 you will receive a copy of the deposition four days
16 before the date you are due to appear on condition
17 that you and your lawyer agree to keep that
18 deposition confidential among yourselves and not to
19 disseminate the contents of that deposition either
20 orally or in writing.

21 A Can I ask a question?

22 Q Yeah.

1 A I get to look at the deposition four days
2 before the hearings are to begin, not necessarily
3 four days before I testify?

4 Q Correct. And then you get a copy yourself
5 to review and prepare four days in advance of your
6 testimony if you're willing to abide by this
7 confidentiality.

8 Now, if you need a break during the course
9 of this deposition, let us know, and we'll take a
10 break. If counsel will just identify himself for the
11 record?

12 MR. DODDS: Sure. Jack Dodds, D-o-d-d-s,
13 for Margaret Williams.

14 BY MR. CHERTOFF:

15 Q And I'm going to indicate to you that if
16 you want to talk to counsel at some point, just
17 indicate you want to do that, and we can either go
18 off the record or you can go outside and consult.
19 Now, there may be some objections to the form of
20 questions. Let the objections get put on the record
21 and then you can go ahead and answer the question.

22 There may be some objections which a lawyer

8

1 indicates that he wants to instruct you not to answer
2 the question. Please wait until we've fully
3 addressed this on the record. And at the end of that
4 you'll be told either to answer the question or not
5 to answer the question. If you're instructed not to
6 answer the question, let's say, by your lawyer, then
7 we may put it to one side and proceed, or we may
8 ultimately reserve the right to go to the chairman of
9 the Committee and get a ruling about whether you
10 should answer the question or not.

11 Is there anything you need clarification
12 on?

13 A No.

14
15
16
17

18 Q Now, you currently work at the White House?

19 A Yes.

20 Q And what's your position?

21 A Assistant to the President and Chief of
22 Staff to the First Lady.

1 Q And have you held that position since the
2 beginning of 1993, January 20th?

3 A Yes.

4 Q You've previously testified before the
5 Senate last summer in connection with a Banking
6 Committee investigation looking into
7 Whitewater-related matters; is that correct?

8 A Yes.

9 Q Let me ask you, since you received notice
10 of this deposition, have you talked to anybody about
11 that deposition except for your attorneys and members
12 of your immediate family?

13 MR. DODDS: Let me ask for a clarification,
14 Mr. Chertoff. When you said talk to anybody about
15 the deposition, you mean other than just the fact
16 that she was going to be deposed?

17 BY MR. CHERTOFF:

18 Q Right, other than just the fact that you
19 were going to be deposed?

20 A No.

21 Q Now, without telling me what you said on
22 prior occasions, am I correct that on earlier

10

1 occasions you have been either interviewed by FBI
2 agents or prosecutors or been asked to testify in
3 proceedings, investigative proceedings?

4 A Everybody.

5 Q Again, putting to one side members of your
6 immediate family and your attorneys, have you talked
7 to anybody about the substance of those interviews or
8 examinations?

9 A In connection with Vince Foster or in
10 connection with the RTC deposition?

11 Q In connection with Vince Foster?

12 A No. I mean -- only what's been -- whatever
13 has been made public in the newspapers that had to do
14 with anything that I said, I probably talked to
15 someone.

16 Q Can you tell us who you talked to?

17 A No. I don't know. It could -- whatever
18 was made public, I'm sure that I've been asked to
19 comment on it.

20 Q Well, putting aside a request to comment to
21 the press, have you discussed the substance of what
22 you testified about or were interviewed about on the

1 Vincent Foster matters with anybody in the White
2 House?

3 A White House counsel, I believe, last
4 summer.

5 Q And that was who?

6 A Lloyd Cutler, Shane Sherbourne.

7 MR. DODDS: It might help, Mr. Chertoff,
8 let me just interrupt for a second. You're focusing
9 now on her interviews and/or grand jury appearances
10 with the Office of Independent Counsel.

11 MR. CHERTOFF: Or with the Justice
12 Department or with the FBI or any agency that's ever
13 investigated this.

14 MR. DODDS: Affiliated with that
15 investigation, not any investigations that were done
16 by the Treasury Department.

17 BY MR. CHERTOFF:

18 Q With respect to any investigation and any
19 instance in which you have been asked to either give
20 testimony or been interviewed by some law enforcement
21 authority for whatever office it may be, have you,
22 after that fact, had conversations about what you

12

1 testified about with anybody other than your lawyers
2 or members of your immediate family? That's the
3 question.

4 A I was interviewed by White House counsel in
5 the course of their own investigation, internal
6 investigation about the RTC matter and also about the
7 Vince Foster matter.

8 Q And when did that interview take place?

9 A Oh, I don't know. In July, maybe. Maybe.

10 Q Was it before you testified at the hearings
11 last year?

12 A Yeah.

13 Q And who conducted the interview?

14 A I believe it was Shane Sherbourne, Sheila
15 Cast.

16 Q And was Mr. Cutler involved in that
17 interview?

18 A I think he may have sat in on it.

19 Q Was there a stenographer present?

20 A Not that I know.

21 Q Was someone taking notes?

22 A I imagine so. It wasn't up to me to.

1 Q Did you observe someone taking notes?

2 A I was too busy talking. I can't imagine
3 that they wouldn't, though.

4 Q Was your lawyer present?

5 MR. DODDS: I was present.

6 THE WITNESS: You were present; that's
7 right.

8 BY MR. CHERTOFF:

9 Q And was there anybody besides members of
10 the White House counsel's office who were present?

11 A No.

12 Q Were you told what was going to be done
13 with those, with that interview or that information
14 that you were giving?

15 A No.

16 Q Were you told it was going to be kept
17 confidential?

18 A I assume so.

19 Q In the course of the questioning, were you
20 told what other witnesses had said to the people from
21 the White House counsel's office?

22 A No.

1 Q Have you seen a copy of any report or
2 record of that interview?

3 A No, I have not.

4 Q Has anybody presented to you any portion of
5 the record of that interview for you to correct or
6 comment on?

7 A No, they have not.

8 Q Other than that interview by White House
9 counsel, is there any other discussion you've had
10 with anybody in the White House concerning matters
11 you've testified about or been interviewed about by
12 law enforcement?

13 A No.

14 Q You haven't had any personal conversations
15 with anybody about it?

16 A No. It was pretty clear that you can't
17 talk to anybody in the White House except for
18 counsel.

19 Q Have you talked to Evelyn Lieberman about
20 it?

21 A No, not about the substance, but about the
22 fact that I had it, obviously. And when I'm out of

1 the office, I have to make arrangements to be out.

2 Q Has anybody talked to you about their
3 deposition testimony related to Vincent Foster?

4 A No.

5 Q Has anybody told you that they were going
6 to be deposed by the committee?

7 A Yeah. I knew that Evelyn was going to be
8 deposed.

9 Q And how did you know that?

10 A Because she told me.

11 Q Did she tell you when she was going to be
12 deposed?

13 A Yeah. I knew that -- she was out. She has
14 a fairly visible job.

15 Q Did she tell you or do you know whether she
16 has previously been interviewed or given testimony
17 regarding the Vincent Foster matter?

18 A I can't imagine that she hasn't. I mean,
19 there was a time when there was nothing but a spate
20 of interviews going on. So I don't --

21 Q You don't know or --

22 A I don't know.

1 Q Has she talked to you about any interviews
2 or depositions she's been subjected to related to the
3 Vincent Foster matter?

4 A She won't talk to me about that.

5 Q I want to direct your attention to July
6 1993. At that point in time, you knew Vince Foster;
7 correct?

8 A That's correct.

9 Q When did you first meet Mr. Foster?

10 A I met him in Arkansas.

11 Q When?

12 A Either August or September of '92. Yeah.
13 August or September.

14 Q And how did you come to meet him?

15 A The people that I lived with in Arkansas
16 during the campaign knew Vince Foster, and I met him
17 one day at a restaurant.

18 Q Other than that meeting, did you have any
19 other contact with him before January 20th, 1993?

20 A No.

21 Q After he became deputy White House counsel,
22 did you have regular contact with Mr. Foster?

1 A Well, some months more than others. I
2 mean, regular, yeah, fairly regular.

3 Q On what kinds of issues?

4 A When Mrs. Clinton became the head of the
5 health care task force, we were immediately sued
6 about the -- about how she would participate in
7 meetings, and the White House counsel's office was
8 very involved in that. And additionally, because
9 substantively in health care we were working on
10 issues that had to do with malpractice issues, the
11 counsel's office was involved, Vince in particular.

12 Q Any other subject you dealt with him on
13 from the time he became deputy counsel?

14 A Sure. A host of little things.

15 Q Such as?

16 A Well, I guess there would be two areas.
17 Just as legal counsel, he was involved in the White
18 House restoration, involved from afar and then closer
19 the more interested he got. But then as kind of a
20 friendly adviser, I spoke to him quite a lot.

21 Q On what kinds of topics?

22 A Well, when I first got to the White House

1 it seemed overwhelming in terms of the job and the
2 responsibilities. And Vince was always encouraging,
3 and always saying that, you know, trust your own
4 judgment. I mean, he was, you know, very personally
5 encouraging to me.

6 Q Did you have contact with him concerning
7 the personal financial affairs of the Clintons?

8 A Only in one instance, and that was he had
9 asked me a question about the trust fund, some stocks
10 that had been given or left to Mrs. Clinton's
11 daughter Chelsea by her grandfather, Mrs. Clinton's
12 father. And he asked me to find out whether or not
13 the stocks, I guess, that were in Hillary's name were
14 meant for Chelsea or not. If so, they would have to
15 amend the blind trust which he was working on.

16 Q Why did he ask you that?

17 A He thought that I would probably reach
18 Hillary before he would.

19 Q Did you -- were you aware that he was
20 working on tax returns with the Clintons?

21 A I don't know if I knew at the time or
22 afterwards, but I figured that if he was working on

1 the blind trust it had to do with taxes and their
2 finances.

3 Q Did you know that he was working in
4 connection with their finances on matters relating to
5 Whitewater Development?

6 A No.

7 Q As of July, 1993 had you ever heard of
8 Whitewater Development?

9 A I don't know when I first heard about it.
10 This is all probably after the fact because I've
11 heard so much about it. I don't know when. I mean,
12 I don't know when I heard about it first.

13 Q Did you hear about it in the campaign in
14 1992?

15 A No. I came to the campaign late. I came
16 to the campaign the last two months of the campaign
17 where I was actually involved. So prior to the -- so
18 prior to that -- and it didn't come up while I was at
19 the campaign.

20 Q And after you came to the White House up to
21 the period of July 20, 1993, had you had any
22 discussions with anybody about Whitewater?

20

1 A No. Just wasn't on anybody's radar
2 screen. Not mine, anyway, at the time.

3 Q Have you ever heard anybody use that
4 expression concerning Whitewater before that it
5 wasn't on the radar screen?

6 A Well, it's a fairly typical comment about
7 any issue that, you know, we discover is a pressing
8 issue and nobody has been thinking about it.

9 Q Kind of a common term or colloquialism used
10 around the White House?

11 A Yeah, I mean, we might say, I mean, we had
12 no idea when we first had an Affirmative action
13 working group that we'd be dealing with that, so
14 rigorously involved. It wasn't on anybody's radar
15 screen.

16 Q Directing your attention to July 20th, how
17 did you first learn that Vincent Foster's body had
18 been found?

19 A Mrs. Clinton told me.

20 Q And where was she?

21 A She was in Arkansas at the time or just
22 landing in Arkansas, landing in Arkansas.

1 Q She went out -- just to place it in time,
2 that was a Tuesday, July 20th. Had she left from
3 Washington for Arkansas on July 20th?

4 A No. She -- Arkansas was the end of a leg
5 of a really long trip. She had been in Hawaii, in
6 California, and then to Arkansas, and then she would
7 be headed back to Washington.

8 Q Now was she in Arkansas to visit with her
9 father?

10 A No -- well, I'm sure that would be -- no.
11 Her father was dead by that time. She was in
12 Arkansas for -- we had an event at the Children's
13 Hospital, and generally when she went to Arkansas she
14 would have all of her checkups and everything because
15 all of her doctors were there. And her mom was in
16 Arkansas.

17 Q She was going to visit with her mother?

18 A Oh, yeah.

19 Q Now what was her intended stay in Arkansas
20 as of Tuesday, July 20th?

21 A Her intended stay?

22 Q Was she planning to stay the rest of the

1 week?

2 A I don't know the rest of the week, but at
3 least until -- at least until Thursday or Wednesday
4 because we had an event on Tuesday; the event hadn't
5 happened yet.

6 Q And so after the event on Tuesday, the plan
7 was for her to stay in Arkansas on personal time, so
8 to speak, from Thursday?

9 A No. The event didn't happen on Tuesday.
10 The event was happening on Thursday in that week. So
11 we knew she would be coming to Arkansas on Tuesday to
12 do whatever her personal appointments were,
13 visiting. And while I don't remember exactly what
14 time she would be returning back to Washington, it
15 was that Thursday evening or Friday. I knew she
16 would have to be there until Thursday.

17 Q Because there was an event scheduled. And
18 she was traveling with Lisa Caputo?

19 A Uh-huh.

20 Q And that was her press secretary?

21 A That's correct.

22 Q How did Mrs. Clinton reach you?

1 A By telephone.

2 Q Did she call you directly at your
3 apartment?

4 A Uh-huh.

5 Q And you were home?

6 A Uh-huh.

7 Q Do you remember when you left the White
8 House that day?

9 A I don't remember, but -- exactly, but
10 earlier than usual because she was out of town.

11 Q Did she page you first?

12 A I don't know if she paged me first, or
13 Signal called me.

14 Q What's Signal?

15 A Signal is the White House communication
16 system that sends calls to various members of the
17 staff. Come through their -- pages also come
18 through, can come through Signal, too.

19 Q Did she either through a pager or through
20 Signal indicate she wanted you to call her?

21 A No. There were two calls from her -- well,
22 more than two calls, but there were two calls from

24

1 her when I came home. The first call she was on the
2 plane and said that -- she must have called through
3 Signal because I thought she said are you at home.
4 And she said are you going to be there, and I said
5 yes. And she said I will call you when I land.

6 Q Did she tell you why she was calling?

7 A No, she didn't.

8 Q Did she tell you why she wasn't going to
9 speak to you from the airplane?

10 A No, but it's -- it's not uncommon for
11 Hillary or her trip director, someone on the plane
12 when she's traveling to call from the plane to say,
13 you know, hang tough, we're going to talk to you when
14 we hit the ground. One, because you generally get
15 cut off in the plane that she's in. If it's not Air
16 Force One, you're cut off. And secondly, you know,
17 she might want to talk to you on a hard line so it's
18 not -- and if she's traveling, because they don't
19 know where she's going to be next, or where you're
20 going to be next they try and arrange it.

21 Q Now, after she landed, she called you?

22 A Uh-huh.

1 Q And what did she say to you and what did
2 you say to her?

3 A She told me -- I remember the first thing
4 she said to me; she said I want you to sit down. And
5 I just thought that was bizarre. And then she told
6 me that Vince was -- was dead, and I don't know if
7 she told me if he killed himself or he was dead. I
8 don't know what she told me past that.

9 Q Did she tell you how she found out he was
10 dead?

11 A Huh-uh. No. I just remember her saying
12 that.

13 Q And what did you say?

14 A I don't know if I said anything.

15 Q And tell us what else she said to you?

16 A I don't know if it was a second call or her
17 first call anymore, but I know she said she didn't
18 want me to be alone.

19 Q So what happened?

20 A We finished that call, and -- it seemed
21 like as soon as I hung up my beeper was going off.

22 Q And then what happened?

1 A Then I think I tried to call my mom.

2 MR. DODDS: Do you want to take a break?

3 THE WITNESS: And I called Evelyn, and I
4 don't know if she had heard or not. And she says I'm
5 coming to get you, and I said I have to go into the
6 office; I'm going into the office.

7 BY MR. CHERTOFF:

8 Q And why did you want to go into the office?

9 A Because I just knew everybody else would be
10 there.

11 Q So what happened next?

12 A Evelyn came. She doesn't live that far
13 from me. Got in the car, we came to the -- to the
14 White House, to the west wing of the White House, and
15 I feel like I set up my operations. We went into
16 Hillary's office on the second floor. I stationed
17 Evelyn at the receptionist's desk, to station. I'm
18 sure I told her to try to find Lisa Caputo because I
19 knew that we were -- I just figured there would be
20 press or something.

21 And then I went to the press office, to
22 Mark Gearan's office. I feel like Gearan's name was

1 the last name I saw on my pager. But I just -- I
2 knew that -- I knew there would be like a press
3 statement and that people would mostly be there
4 because that's where people generally gather if
5 something was going on. I went down there -- and
6 everyone just looked so sad and blown away.

7 MR. CHERTOFF: Do you want to take a
8 break?

9 (Discussion off the record.)

10 (Recess.)

11 BY MR. CHERTOFF:

12 Q Let me direct your attention back now.
13 It's July 28th --

14 MR. BEN-VENISTE: Can I make a suggestion?
15 Obviously this remains a very emotional subject for
16 you, Ms. Williams. I'm sure I speak for Mike in
17 suggesting that if you would like to take more
18 frequent breaks than are usual practice, please just
19 let us know, and we will accommodate that.

20 THE WITNESS: I appreciate that, but
21 there's no way I want to prolong this. Let's just
22 try to go. Let's go.

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1 MR. CHERTOFF: Whenever you want a break,
2 let us know.

3 MR. DODDS: I think what everybody needs to
4 understand -- and I'm sure you do at this point if
5 you didn't before -- is Ms. Williams alluded earlier,
6 she and Vince Foster were more than just co-workers.
7 They had a personal friendship that was very
8 important to her, and what she learned that night
9 affected her on a human level. And that's what you
10 see here today.

11 MR. CHERTOFF: Sure. All right.

12 BY MR. CHERTOFF:

13 Q Well --

14 A Okay. Let's go.

15 Q Let me get your attention back to July 20.
16 You arrived at the White House with Ms. Lieberman.
17 You say you put her in the First Lady's office or in
18 that suite?

19 A Yes.

20 Q For what purpose?

21 A As I said before, I had a feeling I was
22 setting up some kind of, you know, operation. I

1 didn't know what needed to be done or what had to be
2 done. When the -- Mrs. Clinton's father died earlier
3 in the year, I had been at home and she had called me
4 and I had come back in, not really knowing what I was
5 going to do. But it ended up we had quite a lot to
6 do in terms of scheduling and all kinds of things. I
7 just thought I should be ready to roll.

8 Q And then you went down to the press office?

9 A Yes, I did.

10 Q And what happened in the press office?

11 A Well, basically people were milling around
12 and talking and -- but there was a statement that was
13 made. I don't know if it had been written already or
14 they were making changes, but there was a draft and a
15 statement in the works. I sat down for a few minutes
16 because I really couldn't talk. And Howard Pastor --
17 I remember seeing him because he had on jeans. I had
18 never seen him in jeans before. I realized that he
19 was -- he had come -- he had come back, too. And he
20 tried to say something to me; I don't remember what
21 it was, something funny.

22 In any course, I took the statement at some

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1 point. I wasn't there very long. I took the
2 statement and went back upstairs to Mrs. Clinton's
3 office where everyone was sitting. And I don't know
4 if I went to the Xerox room and Xeroxed a statement,
5 but I feel like I had Evelyn call Lisa Caputo with a
6 statement or at least read it although she may have
7 been called already by Gearan's office. I'm not
8 sure. But anyway, there was something that happened
9 with the statement. I got the statement and came
10 back up.

11 And then I don't quite know the sequence of
12 the following things, but let me just tell you what I
13 think happened. I know I went to my office, which is
14 right next door to Mrs. Clinton's office. I think
15 that I was there for the schedule because the
16 schedule at that time used to come sliding in under
17 the door, her schedule and the President's schedule.
18 And everybody was trying hard, I think, to be
19 official and be sad -- I mean, you felt like you had
20 something to do, but.

21 So one of the things I was thinking was
22 that -- I knew that Mrs. Clinton had the hospital

1 event coming up, and I thought if we were going to
2 have to kill that event that I should start now; I
3 needed to see the schedule. As it turned out, it was
4 on Thursday and not on Wednesday, but I know there
5 was something about the schedule. And then I went
6 into Vincent's office.

7 Q Now -- go ahead.

8 A And as I said, I don't know what the
9 sequence was, but I went into Vincent's office. A
10 light was on in his office. There's like a little
11 lobby that was dark, but the light was on in
12 Vincent's office.

13 Q You mean the reception area, the central
14 reception/waiting area was dark, but his light was
15 on?

16 A Yes. And I went into the office. And I
17 remember when I had gotten off the elevator the first
18 time to go into Mrs. Clinton's office, I remember
19 deliberately not looking at the office, like turning
20 my head and going straight into Mrs. Clinton's
21 office. But somewhere in between my office, Evelyn's
22 office, the light was on, and I went in. When I

1 walked in the door, Patsy Thomasson was sitting at
2 Vincent's desk. I went to sit on the corner of
3 Vince's couch. And then at some point Bernie
4 Nussbaum came in.

5 Q Where did he come in from?

6 A I don't know. The way Vince's office
7 worked, on that couch where I was sitting, the way
8 the room is configured architecturally, it's blocked
9 off from the door. In fact, Vince and I used to sit
10 there if we didn't want to be found because you could
11 look in his office and never see him if he was there,
12 if he was sitting there. So you can't see the
13 doorway from where I was sitting, so I don't know
14 where he came from. Anyway, he comes in and he paces
15 around for awhile, and --

16 Q Then what happened?

17 A I sat there still, like, crying. Then I
18 can't remember if Bernie Nussbaum left before me, or
19 if I left before Bernie Nussbaum. I know we left --
20 Patsy Thomasson was still sitting at Vince's desk
21 when I left, but I don't know what the sequence was
22 with Nussbaum and myself. And I remember going back

1 down to Gearan's office by way of the stairs, or at
2 least heading in that direction. And I don't know
3 what for at that point, to check back in or
4 whatever. And then I'm sure there was -- there was
5 not a lot to do, and I went home.

6 Q Did you go back up to get Ms. Lieberman?

7 A Oh, yeah.

8 Q After you were in Mr. Gearan's office the
9 second time, did you go any place other than back up -
10 to Mrs. Clinton's suite?

11 A No, and I'm not sure -- I'm not sure if I
12 was headed to Mark's office, Gearan's office for the
13 second time and didn't go or actually went in again;
14 because I don't, in my head, have an idea about going
15 in there the second time. But I remember being in
16 the stairwell with Bernie Nussbaum.

17 Q This would be after you left the office,
18 after you left the White House counsel's office?

19 A I think that's the sequence. Like I said,
20 I'm not sure, but I think that's the sequence in
21 which I did it. And -- yes. That is the sequence in
22 which I did it. I went -- because Bernie was in

1 front of me in the stairwell. I remember having a
2 picture of him in front of me.

3 Q And this is as you walked out of Vincent
4 Foster's office?

5 A Yeah. There's an elevator, and then if you
6 turn left here there's a stairwell. And you, you
7 know, walk across the lobby and you can be in
8 Gearan's office. But whatever I did, when I went
9 into the -- whether I went into Gearan's office or if
10 I turned around and went back and decided to go home,
11 I'm not sure, but I know I had to collect Evelyn.

12 Q Now you say there was a second call, an
13 additional call with Mrs. Clinton that night?

14 A Uh-huh.

15 Q When did that take place?

16 A I don't know the exact time, but I just
17 know -- I know it was late because I was at home.
18 And when I got home my phone was ringing off the
19 hook. And I'm sure she called me because I think --
20 I always think of it this way: Like the first call
21 when she called me to tell me about Vince's death was
22 to comfort me, and the second call, I always think of

1 it as a call where I was trying to comfort her.
2 Because at that point she, you know, she said -- she
3 had been away for awhile.

4 Q Away where?

5 A You know, Hawaii, California. And she said
6 do you know anything about why Vince would do this?
7 What's going on? You know, is there something you
8 can tell me? What's happening? You know. And then
9 she was trying to remember the last time she had
10 spoken to him.

11 Q Anything else in that conversation?

12 A No. More of kind of trying to figure, you
13 know, she kept saying did you have any idea, did you
14 have any idea about this. And I didn't have any idea
15 about it.

16 Q Going back over this, when Ms. Lieberman
17 came to pick you up, and this was -- you had called
18 Ms. Lieberman first?

19 A I think so.

20 Q And did you ask her to come pick you up?

21 A No. But I know her inclination would be to
22 come pick me up, that she knew that I was -- one, she

36

1 knew I was close to Vince. She knew that I was
2 upset. She knew that I would likely, you know, jump
3 in my car and go somewhere. And I think her view was
4 she couldn't stop me, but she could get me to wait
5 for her.

6 Q Did you, in this conversation with her,
7 indicate you were you were thinking of going to the
8 White House?

9 A Oh, I may have.

10 Q And did you tell her why you wanted to go
11 to the White House?

12 A No. I may have said -- I mean -- you know,
13 I don't really remember the ins and outs of the
14 conversation. I know I had a clear feeling I was
15 going somewhere. I don't know where I was going.
16 But deciding on going to the White House would make
17 sense to me.

18 Q And you think you made that decision before
19 or during your call with Evelyn?

20 A I don't know. I mean, I can't say when I
21 did it.

22 Q Did you call the White House first to see

1 who was there?

2 A No.

3 Q Did you have it in your mind at that time
4 that you wanted to go look at the schedule?

5 A I don't know what I had in my mind. But I,
6 but I like to think that -- in some way I think that
7 the precedent I had set earlier by going in when
8 Hillary's father died, just in case -- even then I
9 didn't go over, you know, to the house or hang around
10 with the family; I went to the office because I
11 thought something might happen here at the office
12 that -- and I didn't know what to expect, but I
13 thought I should be there. I think I just kind of
14 had -- not knowing where to go, you know. I just
15 went there.

16 Q So you had no particular purpose in going
17 there in mind?

18 A I -- I don't believe that I was as
19 purposeful as I like to think I would be. I would
20 like to tell you that I thought immediately schedule,
21 cancel, that. But I think my first response was an
22 emotional one, and then I was trying to collect

1 myself because, you know, I still had a job of some
2 sort, to do.

3 Q And Ms. Lieberman said she would come by
4 and get you?

5 A Uh-huh.

6 Q Do you remember, did she honk for you and
7 you came downstairs?

8 A I have a first floor apartment building. I
9 don't remember her honking. I probably was just
10 outside in front.

11 Q And then she drove you to the White House?

12 A Uh-huh.

13 Q And that's about six blocks from where you
14 lived or lived at the time?

15 A Yeah.

16 Q Did you talk -- did you tell her on the way
17 over that you had spoken to Mrs. Clinton?

18 A I may have told her that on the phone. I'm
19 not sure.

20 Q Now at that point in time, had you any
21 question in your own mind about why Vincent Foster
22 would have taken his life?

1 A Did I have any question?

2 Q Yes. Were you asking yourself the question
3 why did he take his life?

4 A You know, I'm not -- I'm not sure when I
5 knew that Vince had committed suicide, and I can't
6 remember anything from the conversation I had with
7 Mrs. Clinton. I've tried to remember whether or not
8 she said Vince has killed himself or if I heard that
9 even from Evelyn. Or that it was the news, or if,
10 you know, people were talking about it already or
11 someone else had called Evelyn to tell her, and I
12 really don't know the moment at which I knew that. I
13 don't know the moment at which I knew that.

14 Q So your sense is when you first learned
15 about the discovery of the body you didn't know if it
16 was a suicide or something else?

17 A I'm not -- I'm just not sure. I just
18 remember Vince is dead. I'm not sure.

19 Q Did Mrs. Clinton indicate to you in the
20 first conversation or ask you about a suicide note
21 whether there was any kind of suicide note?

22 A I mean, I -- once she said Vince is dead --

40

1 I don't know if she said Vince is dead or Vince
2 committed suicide; I'm not sure -- I don't even know
3 how it ended. I don't know if I hung up on her. I
4 don't know. There was not much else after that.

5 Q Now, when you got to the White House you
6 went up -- you took Ms. Lieberman up to the First
7 Lady's suite?

8 A Uh-huh.

9 Q And where is her office normally?

10 A Who?

11 Q Ms. Lieberman's office?

12 A In room 100.

13 Q Is that in the west wing?

14 A No. The Old Executive Office Building.

15 Q And is that where your main office is?

16 A At the time I spent a lot more -- now it
17 is. During that time I spent a lot more time in my
18 west wing office.

19 Q And that was down the hall from the First
20 Lady's office?

21 A Yes.

22 Q Which is the same floor as the White House

1 counsel's office?

2 A Yes.

3 Q And is there some reason you didn't bring
4 Ms. Lieberman down with you to Mr. Gearan's office?

5 A In my own view, I think that if anybody
6 called in or whatever, that they would be calling in
7 to Evelyn. I'm almost sure I asked her to call Lisa
8 Caputo. I can't imagine that I didn't say try and
9 get in touch with Lisa. I mean -- I don't remember
10 saying exactly, but I can't -- I can't believe I
11 didn't try and be in touch with Lisa. And that if
12 Evelyn needed to get her, she needed to get there and
13 that Lisa would need a place to call into.

14 Q Who is Jeff Watson?

15 A Jeff works in intergovernmental affairs, or
16 did at the time, and he is a friend of mine.

17 Q Is there a person by the name of Helen who
18 you called that night?

19 A I didn't call a Helen. But there's a --
20 there's a person, Helen Dickey, who worked for
21 Mrs. Clinton.

22 Q And in what capacity did she work for

1 Mrs. Clinton?

2 A She -- actually she stayed at the third
3 floor of the residence in the beginning, and
4 essentially she worked in the social office. But,
5 you know, if you were looking for Chelsea or looking
6 for Mrs. Clinton and the ushers didn't tell you, you
7 know you could find Helen on the third floor.

8 Q As of July 1993, where was Helen staying?
9 Did she stay at the residence, or did she have her
10 own place?

11 A I think she was still at the residence --
12 I'm not sure. I am pretty sure she was still at the
13 residence.

14 Q Did she call you that night?

15 A I don't know.

16 Q Do you remember speaking to her that night?

17 A I don't remember speaking to her.

18 Q You say Ms. Lieberman lives not too far
19 distant from where you lived in July of 1993?

20 A Uh-huh.

21 Q Can you give us a sense of how much time it
22 was between the time you called Ms. Lieberman and the

1 time you got to the White House?
2 A I don't know. I just -- I don't know.
3 Quick. I would just say quick. I don't remember it
4 being a long time.
5 Q Would it be within half an hour?
6 A I would think so. I mean, I can't
7 imagine -- I can't imagine that Evelyn wouldn't jump
8 in her car, and it's not like I had to get ready for
9 anything.
10 Q And you didn't go any place else on the way
11 to the White House; you went directly from your house
12 to the White House?
13 A Yes.
14 Q After you had left Ms. Lieberman in the
15 First Lady's suite, you went down to Mr. Gearan's
16 office?
17 A Yes.
18 Q And you spent how much time there,
19 approximately?
20 A I don't know. I really don't know. I
21 always think of it as not long, but I just don't
22 know.

1 Q You then took a copy of the press release
2 and brought it back upstairs to the First Lady's
3 suite, correct?
4 A Uh-huh.
5 Q And you made a copy of it?
6 A I think I did.
7 Q What did you do with the copies?
8 A I don't know. I probably -- I mean,
9 anything that's like that, I mean, my routine would
10 be immediately to make a copy because I lay stuff
11 down and then it's gone. So I'm sure I made a copy,
12 especially if it was like a first draft or something,
13 and people were going to work on it. And if I wanted
14 to see how the changes were going or whatever. So
15 routinely I make a copy of anything.
16 Q This was an one- or two-page press release?
17 A It wasn't a press release. It was just
18 like a statement from the President and Mrs. Clinton,
19 and it wasn't very long at all, as I remember. I
20 don't even think it took up a whole sheet of paper.
21 Q And you made one or two copies of it?
22 A Uh-huh. I really think I did.

1 Q Did you communicate with Mrs. Clinton or
2 Lisa Caputo about the substance of the statement?

3 A I am not -- I know I didn't talk to
4 Mrs. Clinton about the substance. I wouldn't. I
5 mean, if it was a statement I would immediately talk
6 to Lisa about it. That would be my practice. I
7 don't remember exactly having a conversation with her
8 or if Evelyn had a conversation with her about it.

9 Q Do you recall Evelyn being on the
10 telephone?

11 A I don't know. I don't know.

12 Q Did you deal with anybody in connection
13 with making suggestions or reviewing this proposed
14 statement?

15 A Well, I think that I knew that my input was
16 probably going to be limited. It wasn't the kind of
17 thing that you had to have a lot of discussion
18 about. But I think I remember that it was a draft,
19 and they were going to have a final at some point.
20 And I just knew that I would go back to Gearan or
21 Gearan would talk to Lisa, or I don't know how it
22 would all get arranged. But I just -- I just don't

1 remember having a huge conversation about the wording
2 of the statement.

3 Q Now at that point you saw a light coming
4 from Vincent Foster's office?

5 A I don't know at which point I saw it. I
6 don't know the exact sequence.

7 Q It was after your first visit to
8 Mr. Gearan's office?

9 A Yeah. I know that.

10 Q And the outer reception area was dark?

11 A Uh-huh.

12 Q Was there any other interior office that
13 was lit?

14 A No there's only one other office in there,
15 which is Bernie Nussbaum's office.

16 Q And that was not lit?

17 A It was not lit.

18 Q Did you see cleaning people in the hall?

19 A Yes, I did.

20 Q And what were they doing?

21 A Milling.

22 Q Was there anybody else present besides the

1 cleaning people in the hall?

2 A I'm sure that -- I'm sure. The guard who
3 let us -- to get into Mrs. Clinton's office, we
4 needed to have the door unlocked. And either the
5 same guy who unlocked the guard -- unlocked the door
6 was standing there. I remember seeing a guard and
7 the cleaning people, you know, in the hall.

8 Q So you were actually -- you actually went
9 to get a guard to open up Mrs. Clinton's office?

10 A When I first came -- when I walked into the
11 door because I knew it would be locked.

12 Q Where was that guard situated?

13 A When you walk into the west wing there's
14 a -- I mean, a desk right there on the ground floor,
15 and her office is on the second floor. The guard is
16 generally right there. And I'm sure I -- I said I
17 need to get into Mrs. Clinton's office, you know,
18 whatever. And either he came to open the door, or he
19 couldn't leave his post and sent somebody else to
20 open it. But the door got opened.

21 Q You didn't have a key to Mrs. Clinton's
22 office?

1 A No.

2 Q Is Mrs. Clinton's office an alarmed office?

3 A At that time I don't think it was. At that
4 time I don't think it was. But it has been since,
5 but at that time I don't remember it. But she had a
6 key to -- I mean, there was a key to her office.
7 There was a key to my office, but I never lock my
8 door.

9 Q Did your office interconnect with her
10 suite?

11 A No.

12 Q Given that her office was locked, why did
13 you choose to have Ms. Lieberman sit in her office
14 rather than your office, which was unlocked?

15 A Just because it's my practice to work out
16 of that office. Generally when Mrs. Clinton is
17 there, which is like every day at the beginning, I
18 would kind of station myself in that vestibule even
19 though my office is down the hall. And
20 Mrs. Clinton's assistant, Pam, is there, who also
21 helps me, and you know. It's usually -- I just work
22 out of that office. I stand in that little

1 vestibule.

2 Q So the uniformed officer took you up or
3 rode up with you and opened up Mrs. Clinton's office?

4 A For some reason I think we went up first
5 and waited. Because I don't think he could leave his
6 post downstairs because it's right at the door, and I
7 think he may have said I'll call somebody, or he got
8 somebody to hold his post and he came up. I don't
9 know who opened the door, but I think he couldn't
10 leave with us.

11 Q And the officer you saw, you think you saw
12 with the cleaning people when you saw the light from
13 Vincent Foster's office was the same officer who
14 opened the door for you?

15 A I don't know. But he was somebody I had
16 seen before.

17 Q And -- so they were standing outside the
18 White House counsel's suite?

19 A Uh-huh.

20 Q The White House counsel's vestibule or
21 reception area was dark?

22 A Uh-huh.

50

1 Q Mr. Nussbaum's office was dark?

2 A Yeah.

3 Q There was a light that you could see
4 emanating from where you knew Mr. Foster's office to
5 be?

6 A Right.

7 Q You then went into the counsel suite?

8 A Right.

9 Q You walked into Mr. Foster's office and you
10 saw Patsy Thomasson sitting behind the desk?

11 A Right.

12 Q What was she doing?

13 A She was crying. And she was lifting -- she
14 lifted paper, and then she put them down.

15 Q Did she tell you what she was doing?

16 A She didn't tell me what she was doing, but,
17 I mean, it makes sense to me now; it didn't then.
18 But I remember her saying something like Lisa would
19 be comforted if we could find the note or something.
20 At the time I just kept thinking Lisa? Because the
21 only Lisa I could think of was Lisa Caputo, but it
22 was Lisa Foster. But I didn't -- at the time I just

1 thought it was -- I couldn't figure out what she was
2 talking about.

3 Q So you then sat down on the sofa?

4 A Uh-huh.

5 Q And how long was it before Mr. Nussbaum
6 walked in?

7 A It seems pretty quick. I feel like I
8 just -- I walked in, I saw Patsy. I immediately sat
9 down and started weeping again, and Bernie came in
10 and he just started to pace.

11 Q And what did he say?

12 A Nothing. He was scratching his head and
13 shaking his head.

14 Q Did he say where he had come from?

15 A No.

16 Q When he came in, do -- did he turn on the
17 light to the reception area?

18 A I don't know. I couldn't see, and when I
19 went out, I don't remember.

20 Q You don't remember if it was lit or not?

21 A No, I can't remember if it was.

22 Q When you came out, do you remember whether

1 Mr. Nussbaum's office was lit?

2 A No, I don't. No, I don't.

3 Q Did Ms. Thomasson tell you how she had
4 gotten into Mr. Foster's office?

5 A No.

6 Q Mr. Nussbaum said nothing during the period
7 of time he was pacing?

8 A He may have said something to me like don't
9 cry or whatever, but I don't think he knew what to
10 say.

11 Q And how long do you figure he spent there?

12 A It wasn't long because I didn't spend that
13 long there. And like I said, I can't remember if he
14 went first or if I went first. But like I said, I
15 always have a snapshot of us in the stairwell
16 together.

17 Q And your snapshot is of him ahead of you?

18 A Uh-huh.

19 Q And that snapshot in your mind occurs
20 immediately after you leave the office?

21 A I don't have any timing on it. But when,
22 you know, I have been asked this question quite a few

1 times about the sequence of who left and whatever,
2 and the closest I could ever get to it was seeing us
3 together in the stairwell. So I assumed it was
4 afterwards because that was the only time that I saw
5 Bernie that night, was in the office when I went in
6 there. And the only time I see him is in that
7 stairwell.

8 Q And Ms. Thomasson remained behind?

9 A Uh-huh.

10 Q Is there anything else you remember
11 Ms. Thomasson saying during the period of time you
12 were in there?

13 A I mean, I don't remember anything that she
14 said. I mean, I can't believe she didn't, you know,
15 shake her head or say why or, you know, the usual
16 stuff, but I don't remember it as a conversation.
17 And that Lisa thing stands out because I kept
18 thinking why is she talking about Lisa Caputo. I
19 didn't understand what that meant. But I don't
20 remember anything else.

21 Q Now, did you carry anything out of the
22 White House counsel's suite?

1 A No.

2 Q Did Mr. Nussbaum give you anything to
3 carry?

4 A No.

5 Q Your recollection is that you then went
6 down in the direction of Mr. Gearan's office, whether
7 or not you actually went there; correct?

8 A Yes, that's correct.

9 Q And then shortly thereafter, you went back
10 up to get Ms. Lieberman to go home?

11 A Right.

12 Q And how did you arrange to lock the First
13 Lady's suite?

14 A Oh, I'm sure that we either phoned the
15 guard or told them on the way out.

16 Q As you walked out --

17 A Well, I don't know if he was still there.
18 I mean, he could have been there because I don't know
19 how long he was milling about. I can't imagine that
20 we wouldn't have said to him that we're leaving; lock
21 up. I mean, there's just no way. One of us would
22 have said it.

1 Q And when you walk out of that suite, you
2 would walk to the elevator to take you to the ground
3 floor; correct? That takes you by the White House
4 counsel's suite; correct?

5 A Right.

6 Q At that point when you left, was the light
7 still on in Mr. Foster's office?

8 A I don't even know if I looked. I don't
9 know.

10 Q Was Ms. Lieberman at some point in time in
11 the White House counsel's suite?

12 A Not when I was there. I only saw her --
13 she was only at the desk.

14 Q And did Ms. Lieberman at some point
15 introduce you to one of the uniformed guards?

16 A What do you mean "introduce" me?

17 Q Say to one of the guards, in substance,
18 this is Maggie Williams, who works for the First
19 Lady?

20 A No.

21 Q When you were on the stairwell with
22 Mr. Nussbaum, did you have conversation with him?

56

1 A No. I don't remember. Like I said, I just
2 have this picture of us.

3 Q When you talked to the First Lady back,
4 later that night when you were back at home, did you
5 tell her you had been in Vincent Foster's office?

6 A No.

7 Q Did you tell her Patsy Thomasson was
8 looking for a suicide note?

9 A No.

10 Q Did you discuss with her whether there was
11 any kind of suicide note or writing that Vince Foster
12 might have left?

13 A All I know is we talked about -- she wanted
14 to know if I had any idea why Vince killed himself;
15 did I know anything else. I didn't know anything
16 else, and she kept asking me. I mean, that was what
17 our conversation was about. And she may have said
18 something about -- I know she said something about
19 the last time she talked to him and not
20 remembering -- she should have talked to him more or
21 something. I don't know.

22 Q When, when Ms. Thomasson was at

1 Mr. Foster's desk on July 20th in the evening, did
2 she have a cell phone with her?

3 A I don't remember seeing a cell phone.

4 Q And when you got back, did you have a
5 conversation -- when you got back home after being at
6 the White House that evening, did you have a
7 conversation with Susan Thomases?

8 A No. I don't remember -- I remember having
9 a conversation with her the next day or something.

10 Q Did she page you that night?

11 A She could have.

12 Q Would you have returned her call?

13 A Yeah.

14 Q Would it help you to refresh your memory
15 about paging you if I tell you I have the White House
16 record that indicates either you received a message
17 to please call Susan Thomases at 212-772-6019 at
18 12:15 a.m. in the morning?

19 A Yeah, I mean, she could have paged me. I
20 didn't talk to her. A lot of people page me that I
21 don't get back to, you know.

22 Q When did you get back to her?

1 A Well, I probably -- I'm not the most
2 careful person on these pages. I have a tendency to
3 turn them off. I have a tendency to leave them in
4 different places. Where my pager was that night, I
5 know where it was when I -- the last time I remember
6 my pager was seeing Gearan's name on it. I don't
7 remember being paged by Susan, but, you know, it
8 wouldn't surprise me to have been paged by Susan.

9 Q But your recollection of the next time you
10 talked to her was that it was the next day?

11 A My recollection of talking to Susan that
12 week was not over the phone. It was in person.

13 Q She came down?

14 A Yeah. I get my Wednesdays and Thursday of
15 that week mixed up. But I'm sure I saw Susan that
16 week. Either Wednesday or Thursday. I'm sure I saw
17 her in person.

18 Q Did you have any -- you've described,
19 actually, three conversations with Mrs. Clinton that
20 night. A brief conversation in which she calls you
21 from the airplane, an initial conversation where she
22 tells you that Mrs. Foster -- Mr. Foster's body had

1 been discovered or that he committed suicide, and
2 then a conversation you had with her when you got
3 back from the White House. Did you have any other
4 conversations with her either that night or in the
5 early hours of the next morning?

6 A I don't remember having any more
7 conversations with her. I know I talked to her the
8 next day. I can't believe it was early in the
9 morning, though.

10 Q What was your conversation with her the
11 next day?

12 A She wanted me to see Tipper Gore.

13 Q This was a call you placed to her or she
14 placed to you?

15 A I don't remember, but I know there was --
16 at some point, Hillary wasn't there and I really do
17 think it was the next day because I think I saw
18 Tipper Gore the next day.

19 Q Was this call with Mrs. Clinton in the
20 morning or the afternoon?

21 A I don't remember. I know it was that next
22 day, though.

60

1 Q But as of your last call with Mrs. Clinton
2 the night of the 20th or the very early hours of the
3 21st, your testimony is you did not tell her that you
4 had been at the White House?

5 A I didn't feel I had any reason to do it.

6 Q So you didn't tell her you had been there?

7 A Right.

8 Q You didn't tell her Patsy Thomasson was
9 looking for a note?

10 A No.

11 Q Did you typically attend the senior staff
12 meetings in the White House in the morning, the 8:00
13 meeting?

14 A Generally.

15 Q And that was generally presided over by
16 Mr. McLarty?

17 A Yes.

18 Q Did you attend a meeting the day after
19 Mr. Foster's body was found?

20 A I don't think I did because I spent the
21 night at Evelyn's house that night. And I just
22 remember getting up late. I don't think I went to

1 that meeting.

2 Q I'm sorry. So you didn't go home that
3 night?

4 A I did go home, but then I did end up at
5 Evelyn's house that night.

6 Q I'm not going to ask you who it is, but did
7 you go directly to Evelyn Lieberman's house, or did
8 you go someplace else first?

9 A No, I went to my house.

10 Q And after your house, did you go directly
11 to Evelyn Lieberman's house?

12 A Uh-huh.

13 Q Is it your testimony you saw no one else
14 from the time -- let me withdraw the question.

15 Evelyn Lieberman took you home?

16 A Uh-huh.

17 Q Did she leave you at home or did she stay
18 with you?

19 A No. She left me at home; she stayed for a
20 little while and then she left.

21 Q Did she come back to get you?

22 A No.

1 Q Did you drive to -- drive to her house?

2 A No.

3 Q How did you get to her house?

4 A Ron Noble took me to her house.

5 Q So you did see someone else in between the
6 time you came home and the time you went to Ms.
7 Lieberman's house?

8 A Yes.

9 Q So the next morning you came in from
10 Ms. Lieberman's house?

11 A That's correct.

12 Q Did there come a point in time in the
13 morning when you saw Mr. Nussbaum?

14 MR. DODDS: In the morning?

15 MR. CHERTOFF: Of the 21st. That's the
16 last day.

17 THE WITNESS: Yeah, probably.

18 BY MR. CHERTOFF:

19 Q Did you and Mr. Nussbaum go down and see
20 some Park Police?

21 A Me?

22 Q Yes.

1 A Oh, no.
2 Q You didn't see any Park Police on the 21st?
3 A No.
4 Q You didn't accompany Mr. Nussbaum down when
5 he met with some Park Police who were waiting at the
6 White House?
7 A No.
8 Q That didn't happen?
9 A Did not happen.
10 Q Did you have any conversations -- okay, at
11 some point during the day of the 21st you had a
12 conversation with Mrs. Clinton?
13 A Yes.
14 Q How many conversations did you have with
15 her that day?
16 A At least one for sure. At least -- that
17 was Wednesday? At least one for sure, maybe two.
18 One was the Tipper conversation.
19 Q And tell us about that conversation.
20 A I guess she had talked to Tipper Gore
21 during the night, or whatever, and -- because Tipper
22 Gore is involved in, like, mental health issues and

1 counseling. She wanted to make sure that people at
2 the office got counseling. And she wanted Tipper to
3 spend some time talking to me.
4 Q And did you, in fact, go and talk to
5 Mrs. Gore?
6 A Yeah, for a couple minutes.
7 Q In that conversation concerning Mrs. Gore,
8 did you have any conversation, again, about why
9 Mr. Foster would have taken his life?
10 A Why he would have?
11 Q Uh-huh.
12 A I think we were trying to figure out why,
13 but hers was the usual -- it was more like for me,
14 about, you know, taking time, kind of your counseling
15 rap. I mean, it was very -- I mean, it was, you
16 know -- it was -- it was more emotional than taking
17 time. And Hillary, I guess, had told her that I
18 would probably take it badly because she knew that
19 Vince and I were friends, and she wanted Mrs. Gore to
20 spend some time with me.
21 Q In this conversation, was there any
22 speculation between the two of you about what caused

1 Mr. Foster to do this?

2 A Huh-uh.

3 Q Was there any discussion about whether
4 there was a note or anything of that kind?

5 A Huh-uh, no. It was mostly less -- as I
6 remember, less centered on him and more centered just
7 on me, and follow counseling and, you know.

8 Q And you had a second conversation with
9 Mrs. Clinton that day as well?

10 A Well, I'm not sure if we had -- I know
11 there were two topics I talked to her about. I know
12 the Tipper thing was a big thing because she kept
13 saying you have got to go see her. And the other
14 thing was deciding what she was going to do on
15 Thursday because we still had that event.

16 Q And what was that discussion?

17 A I thought she should cancel it, and she
18 thought that she shouldn't. She thought that, you
19 know, kind of like going forward would be not
20 dishonoring Vince. She thought she should go. And
21 since it was the Arkansas Children's Hospital and
22 since I guess he had had some deal with it when he

1 was there, she was deciding to do it. And I was
2 telling her that I thought she should cancel it, that
3 she didn't need to do it.

4 Q In that conversation was there any
5 discussion about why Vincent Foster took his life?

6 A No, I mean, no more than -- hell, you
7 couldn't talk to one person that day and not have
8 them say why did Vince kill himself.

9 Q And so this came up in conversations with
10 Mrs. Clinton, too?

11 A I imagine it did. I don't remember the
12 specifics, but it seemed nuts to me that it wouldn't
13 have.

14 Q In either of these conversations on the
15 21st, did she ask you whether a note had been found?

16 A She did not ask me that.

17 Q Do you remember anybody else in the White
18 House during that day wondering whether a note had
19 been found?

20 A I don't remember that. I'm trying to think
21 if that was the day the President talked to the whole
22 staff, but I think it was the day right afterwards

1 that he talked to the whole staff. Now, I, of
2 course, did go, but I know that he did, and I know
3 that -- what I heard back -- and this may not say
4 anything, but I'm just trying to put this together.
5 I think that the President talked about not knowing
6 the reason why, that we didn't know the reason why,
7 and having to accept it or whatever.

8 And so while there may have been talk about
9 a note, it just seemed to me that the whole issue
10 was -- I mean, apparently there hadn't been, or else
11 I guess we would have heard about it. And then the
12 President kind of capping it by saying, you know,
13 there's -- we don't know why this happened, and some
14 things we'll never know. I remember that that was
15 part of his statement that day.

16 Q Where was Mr. Pastor's office, by the way,
17 in the west wing?

18 A He is on the second floor, but across the
19 hall, but not, you know, the offices aren't, like,
20 directly across. He was, like, across the hall. You
21 would have to walk past the elevator, the stairs and
22 another office to get to his office.

1 Q He was on the same floor as your office and
2 the First Lady's office?

3 A Right.

4 Q Do you remember seeing him on that floor
5 during the night of the 20th?

6 A No.

7 Q But that's where his office was?

8 A Uh-huh.

9 Q Do you know Sylvia Mathews?

10 A Uh-huh.

11 Q Did you see her on the night of the 20th?

12 A I don't remember seeing Sylvia.

13 Q Do you know Craig Livingstone?

14 A Yes.

15 Q Did you see him on the morning of the 21st
16 of July?

17 A No. I rarely ever see him.

18 Q Now, during the course of the 21st, at any
19 point during that day -- again, just to center it,
20 it's the Wednesday after the discovery of
21 Mr. Foster's death -- did you learn that there were
22 Park Police who were interested in looking at

1 documents in Mr. Foster's office on that day?

2 A Uh-huh.

3 Q How did you learn that?

4 A For some reason I think I heard it on the
5 radio because I was amazed that I heard it on the
6 radio, and I wasn't even at work yet. And it said
7 something about, I don't know if they said Park
8 Police or investigators or something will be at the
9 White House or whatever. I just remember -- there's
10 something in my mind that makes me think I heard it
11 on the radio because I couldn't believe that I wasn't
12 even at work yet, and I heard this on the radio.

13 Q And this is when you were coming in after
14 the night, the long night before where Mr. Foster's
15 death had been discovered?

16 A Yeah, I don't know if it was on the car
17 radio or the radio in Evelyn's house. But I just
18 have -- or even on the television. But I have like
19 an audio memory of hearing something about that.

20 Q Did you have any conversations that day
21 with anybody in the White House about that?

22 A I'm sure everybody -- everybody was talking

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1 about it. That was the general buzz that they were
2 coming to look at Vincent's office, and everyone
3 was -- it seems to me discussing all these privilege
4 issues, you know.

5 Q You heard discussion of privilege issues
6 the 21st?

7 A Yeah. Just about general, you know, that
8 these people are coming to look, and does privilege
9 have any role. I mean, it was just -- people were
10 just talking.

11 Q Which people?

12 A God, everybody in our White House talks to
13 each other, to --

14 Q Were the press people talking about the
15 privilege issues?

16 A I don't know where I was exactly when I
17 heard it. But if you know -- and I don't know if the
18 press were talking about it.

19 Q The press people, the communications
20 people?

21 A The press people were talking about it.
22 The staff types.

1 Q The White House, were the staff people
2 talking about it?

3 A I think the staff people were just, in
4 general, talking about it.

5 Q Privilege issues?

6 A I think so.

7 Q And the communication staff people were
8 talking about privilege issues?

9 A I would say staff in general.

10 Q Were the people from the White House
11 counsel's office talking about it?

12 A Oh, God, I imagine that they must have
13 been.

14 Q Did you talk to Mr. Nussbaum about it?

15 A I don't remember having a conversation with
16 him, but I could have. I mean, I just don't
17 remember.

18 Q Did you talk to Mr. Neuwirth about it?

19 A I don't remember talking to Steve about it.

20 Q Did you talk to Mrs. Clinton about the fact
21 that there were investigators who were going to be
22 looking into Mr. Foster's office?

1 A No, I don't remember talking to her about
2 it.

3 Q On either of the conversations that day?

4 A No. Those were -- on Wednesday, those were
5 the main topics I discussed. I don't remember
6 talking -- it was peripheral to me. They were
7 coming; they weren't coming. It was peripheral to
8 me. I mean, you know, at this point looking in his
9 office, all of that stuff was so irrelevant to me.
10 And did I hear it -- I do remember -- I do remember
11 hearing something about privilege, and only because
12 this is a White House that takes on every
13 philosophical discussion, and I mean philosophical
14 discussion.

15 I mean, you know how has this affected over
16 time, da, da, da, da, that's just how it is. So it
17 was not majorly relevant to me, and I heard it, but
18 it was like peripheral to me. And I'm sure people
19 were discussing it because people were always
20 discussing it.

21 Q In your conversations with Mrs. Clinton,
22 did this subject of privilege or the subject of

1 Mr. Foster's office come up on Wednesday July 21st?

2 A I don't remember it coming up. But I
3 don't -- I don't remember it coming up. If it came
4 up, it wouldn't surprise me. But I don't remember it
5 coming up.

6 Q So you just don't remember one way or the
7 other?

8 A Yeah, I just don't.

9 Q But your testimony is that on that
10 Wednesday, as far as you were concerned, the issue of
11 documents in the office was really irrelevant?

12 A Yeah.

13 Q It wasn't anything you were assigned to
14 take care of?

15 A Assigned to take care of?

16 Q Right. You had no assignment to take care
17 of or have any involvement, correct?

18 A No. Yeah, I was not assigned to take care
19 of it.

20 Q It was not something you felt you had to
21 look out for or was part of your responsibility on
22 the 21st?

1 A On Wednesday, no.

2 Q Did you know Bob Barnett?

3 A Uh-huh.

4 Q And he was an attorney who was a private
5 attorney to the Clintons?

6 A That's correct.

7 Q How did you come to know him?

8 A I knew him very early on in the
9 administration. We started getting letters right
10 away asking for Mrs. Clinton's participation in this
11 book or that book or some other book. Not all of
12 them had to do with, like, the White House, you know,
13 the White House counsel. A lot of them were like
14 personal, you know. Since you've been an advocate or
15 whatever would you write the forward to whatever.
16 And we really didn't have a way of evaluating these
17 issues, and Bob Barnett, who does a lot of work in
18 the book industry, does and said that he would do
19 it. So I was always, you know, sending him or asking
20 him questions, so that I had gotten to know him
21 really well.

22 Q And did he call you on the 21st?

1 A I didn't talk to him, but I know in the --

2 I know I had a message slip.

3 Q Did you, in fact, have a couple of message
4 slips?

5 A Yeah. Yeah.

6 Q Did you respond to those messages at some
7 point?

8 A I would think that I would have called them
9 back, yeah.

10 Q What was your conversation with Mr.
11 Barnett?

12 A I'm sure that he was calling me about
13 seeing how I was. I'm sure. Bob Barnett is, you
14 know, injury illness, anything, he always calls.

15 Q So you're telling us you don't recall
16 anything particular about the conversation?

17 A I'm sure he was just calling to see.

18 Q Did Mr. Neuwirth leave a message with you
19 on the 21st to call back to him?

20 A I'm sure he could have.

21 Q Do you remember anything about that?

22 A Boy, during those days I was talking to

1 Steve almost every day.

2 Q About what?

3 A Well, we were involved in the FACA suit.
4 Health care was going strong, and this stuff was
5 totally rolling out, so I mean, I was talking to
6 Steve a lot.

7 Q Were you working on this lawsuit and this
8 health care stuff on the 21st?

9 A I don't know. I mean, I don't remember,
10 but for Steve to call me is not, you know.

11 Q Now, did Susan Thomases come down on that
12 Wednesday and Thursday?

13 A For some reason -- I don't know if it was
14 Wednesday or if it was Thursday, but I remember
15 seeing Susan one of those days.

16 Q Where did you see her?

17 A She came by the Old Executive Office
18 Building to my office there. That's where I remember
19 seeing her.

20 Q And what happened?

21 A She came. She gave me a hug. She talked
22 about how terrible, terrible it was.

1 Q Anything else?

2 A Yeah. She -- she -- Susan is an attorney.
3 She was totally consumed by the fact that Vince's
4 wife and children might not be taken care of. And
5 she recalled to me a case where she had -- I mean, it
6 wasn't funny, but the level of detail struck me as
7 humorous -- a case where she had been involved, I
8 think, in, actually in an autopsy or something more
9 dramatic where they found out that a person who had
10 killed himself had killed himself because of some
11 kind of chemical depression or whatever. And they
12 were able, with that evidence, to show that the
13 suicide didn't justify the insurance company not
14 giving the family something. And she went into a
15 long, involved recitation of this case and how
16 worried she was about Vince's family and the kids.

17 Q Did she tell you why she had come down to
18 Washington?

19 A No. But -- I mean, it wouldn't be unusual
20 for Susan to be in Washington.

21 Q Did she have any other conversation with
22 you during this period of time?

1 A No. That was the only -- that really was
2 the only time I saw her that week. I don't even
3 remember if she went to Vince's funeral, but I do
4 remember seeing her Wednesday or Thursday.

5 Q Now, still on the 21st, I want to keep your
6 attention focused on that Wednesday. Is it your
7 testimony that on that day, other than very
8 peripheral conversation you recall among the staff
9 about the investigators wanting to go into
10 Mr. Foster's office, you had no particular
11 conversation or responsibility regarding the issue of
12 Mr. Foster's office?

13 A No. I didn't see myself as having any
14 particular responsibility.

15 Q And you didn't have any discussions with
16 anybody that were directed to the question of how to
17 handle the documents in Mr. Foster's office?

18 A As I said before, if I had, it was
19 peripheral. I mean, I'm not -- I didn't have an
20 opinion about almost everything, I'm sure. And if
21 anyone asked me what my opinion was, I probably gave
22 it to them. But I didn't see myself as having any

1 particular responsibility. It wasn't my deal.

2 Q It you weren't dealing with Mr. Nussbaum on
3 the issue?

4 A Huh-uh -- sorry. No. Unless he was in --
5 you know, if there was a staff meeting and someone
6 had announced investigators were coming, if people
7 were hanging around talking about it. I just don't
8 remember having particular discussions.

9 MR. CHERTOFF: Can we take a break?

10 THE WITNESS: If you want. I don't care.

11 MR. CHERTOFF: Why don't we take five
12 minutes.

13 THE WITNESS: Okay.

14 (Recess.)

15 BY MR. CHERTOFF:

16 Q What was your opinion on July 21st about
17 the Park Police inquiry?

18 MR. DODDS: If you had one.

19 THE WITNESS: "So what?" Let them come.
20 I mean --

21 BY MR. CHERTOFF:

22 Q You had no objection to it?

1 A No.

2 Q You thought it was a good idea, a bad idea?

3 A I don't know. I didn't think about it that
4 much because I didn't know that much about process
5 for this kind of thing. And probably anybody could
6 have told me anything in terms of process, and, and
7 it was probably lazy of me not to think about it.
8 But in the scheme of things I thought that was, like,
9 the least important thing to worry about.

10 I mean, the scheme of things. So I don't
11 remember having a really strong feeling about it, but
12 I didn't know process. So if someone told me that
13 was the way it went, I probably would have said yes.
14 If someone had told me that there has been no
15 precedence in the history of mankind to do this, I
16 would probably say why would we do it. I don't
17 remember having a big feeling about it.

18 Q In your conversation with Mr. Barnett on
19 the 21st, did he indicate anything about the
20 documents to you?

21 A Huh-uh. I actually don't remember the
22 conversation for one thing, period, happening, but I

1 also can't imagine that he would call and I wouldn't
2 call him back. But I'm sure it was just, how are you
3 doing.

4 Q So you have no --

5 A Huh-uh.

6 Q It's not your testimony he raised the issue
7 of the documents or anything like that?

8 A Huh-uh. No. No.

9 Q Did you -- Carolyn Huber worked for the
10 First Lady in July 1993; correct?

11 A Yes.

12 Q And her position was what?

13 A Well, she actually doesn't work for the
14 First Lady. She actually works for the President's
15 office in that she is -- she handles their -- I don't
16 know, insurance, or their papers or residents,
17 guests, things like that.

18 Q And she had that job in July of '93?

19 A Yes.

20 Q Did you talk to her on Wednesday, July
21 21st?

22 A No. No.

1 Q Did you try to reach her on Wednesday, July
2 21st?

3 A Huh-uh. No.

4 Q Did you ask anybody else to try to reach
5 her?

6 A No.

7 Q Did you have any discussion with anybody
8 about trying to reach her?

9 A No.

10 Q Going back, by the way, to the 20th, that
11 evening when you were in Mr. Foster's office, that
12 evening when his body was discovered, how long would
13 you say you were actually in Mr. Foster's office?

14 A I'm just not good on times. But it just
15 didn't seem long to me because the feeling I had
16 after being there seems, for a short while, was --
17 there's nothing to be done here.

18 Q Would you estimate it at 15 minutes?

19 A I just -- I just don't know. And I tell
20 you I was beaten up so badly in that last committee
21 hearing about 10 minutes and 5 minutes and 8 minutes
22 if I ever put minutes next to anything. I just don't

1 know.

2 Q Did you walk out of -- did you carry
3 anything out of the suite that night, the counsel's
4 suite that night?

5 A No. No.

6 Q Were you carrying file folders around that
7 night anywhere in the White House?

8 A No. The only thing -- as I said, the only
9 thing -- and I thought about this -- that I can think
10 of having would either have been a schedule or a
11 statement in terms of paper. That's like the only
12 paper I have any -- that I would touch or would have.

13 Q These were individual pieces of paper?

14 A Yeah. All the -- the schedule -- sometimes
15 when she's out of town for a long period of time they
16 have, you know, like the schedule for the whole week,
17 so it's more than one. But the schedule comes in an
18 envelope, in a big White House envelope, or it used
19 to when it was, in fact, under the door. And I
20 really thought about this; I just don't remember
21 taking anything in or taking anything out of the
22 office.

1 And one reason is -- and this is fairly
2 gross -- but one reason is I remember sobbing so much
3 that I took my hand and I wiped my nose across, and I
4 remember thinking this is really gross. And I
5 remember that because I immediately thought about my
6 mother. And, like, this whole night for me is lots
7 of snapshots in trying to remember pictures since I
8 can't remember all the sequence stuff, but I don't
9 remember.

10 When I think about what I had that night,
11 there are only two things I could have had:
12 Statement, which was short, which would have been one
13 piece of paper; or schedule.

14 Q Which would be maybe half a dozen pieces of
15 paper?

16 A Could have been, yeah.

17 Q Let me take you now to July 22, which is
18 the Thursday. Did you have any discussions with
19 Mrs. Clinton on that day?

20 A I don't remember talking to her Thursday.

21 Q Now, let me first --

22 A Thursday the 22nd.

- 1 Q Let me help you frame the next day, Friday
2 was the funeral. You went --
3 A I went Friday.
4 Q You went with the President's plane; you
5 came back that night?
6 A Yes, I did.
7 Q Coming back with you that night was the
8 President and First Lady?
9 A Yes.
10 Q So now --
11 A I don't remember. You know, that's easily
12 checked -- I don't remember.
13 Q So we have in any case, you do remember
14 that Friday was the trip?
15 A Definitely.
16 Q And Thursday would be the day before?
17 A Uh-huh.
18 Q On the day before the trip to the funeral,
19 you -- bearing that in mind, I will ask you again,
20 did you have conversations with Mrs. Clinton?
21 A No. I don't think I had any conversations
22 with her on Thursday because that was event day --
-

- 1 MR. DODDS: I'm sorry, what day?
2 THE WITNESS: Event day.
3 MR. DODDS: I just didn't hear what you
4 said.
5 THE WITNESS: It was the day I know she
6 was doing the hospital event, and generally I
7 wouldn't talk to her on an event day unless there was
8 something going on wrong. I generally just talk to
9 the staff.
10 BY MR. CHERTOFF:
11 Q Did you talk to anybody who was with
12 Mrs. Clinton that day?
13 A I don't remember. I don't remember. I
14 could have. Her trip director or Lisa, but I just
15 don't remember.
16 Q Did you try to reach --
17 A Oh, I did talk to her Thursday.
18 Q To who?
19 A Mrs. Clinton. Oh, yeah. I talked to her
20 that evening. Because I had talked to her either --
21 I'm trying to remember. I don't know if I called her
22 and I was in Vince's office then or I was in my

1 office or I was in the receptionist's office, but I
2 did talk to her.

3 Q Let me go back a little bit and direct your
4 attention to a period of time between noon and 1:00.
5 Did you get paged to call the Rodham residence?

6 A I could have.

7 Q Do you know who Capricia is?

8 A Oh, yeah. Uh-huh.

9 Q Who is she?

10 A She is Mrs. Clinton's personal assistant.
11 She does her files, travels with her, all this kind
12 of stuff.

13 Q And there's a -- I'll represent to you that
14 there's a record that you received a page to call
15 Capricia at the Rodham residence at 12:47 p.m. on
16 July 22. You returned that call, I take it?

17 A Probably.

18 Q I mean, whatever your practice with
19 returning phone calls, is it fair to say that calls
20 from the First Lady or the President you do return
21 promptly?

22 A Yes, but it's not a practice of returning

1 phone calls. It's a practice of having my pager and
2 returning pager calls or not. If I have my pager, I
3 will return anybody's call. If I don't have it with
4 me, I don't get the page.

5 Q Did you call Capricia?

6 A I don't remember it, but if she paged me
7 and I had my pager, I'm sure I called her.

8 Q Do you remember anything about a
9 conversation with Capricia on that day?

10 A No, I don't remember.

11 Q Did you have a conversation in the early
12 afternoon with Mrs. Clinton?

13 A No. I only remember that one in the
14 evening having a conversation with her.

15 Q Did you set up an arrangement in the
16 afternoon to talk to Mrs. Clinton later in the
17 evening?

18 A No. No. No.

19 Q Directing your attention to the morning of
20 the 22nd before lunchtime, did you have any
21 conversations about Vincent Foster's office with
22 anybody at the White House?

1 A I don't think so. Is this before the
2 investigators came?

3 Q Before the investigators -- well -- before
4 the investigators entered Mr. Foster's office?

5 A Did they come on a Thursday or Wednesday?

6 Q It's a -- well --

7 A I'm just trying to --

8 Q Let me help you this way: I will represent
9 to you there were investigators in the White House
10 for both days, but if what you're asking me is the
11 day in which they actually were in Mr. Foster's
12 office, that was the Thursday.

13 A Okay.

14 Q So I'm going to ask you -- and it was
15 approximately 1:00. I will ask you the period before
16 that happened -- and I'm telling you this just to
17 help you locate in your mind the timing -- whether
18 before they were in the office you had conversations
19 with anybody in the White House concerning
20 Mr. Foster's office?

21 A No. I don't remember having any
22 conversations.

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1 Q Did you have conversations with
2 Mr. Nussbaum about it?

3 A I don't remember having a conversation.

4 Q Do you have a conversation with either the
5 President or the First Lady that morning about
6 Mr. Foster's office?

7 A No. I don't remember having a
8 conversation.

9 Q Did there come a time you were aware that
10 there were investigators in Mr. Foster's office?

11 A That's why I was asking. I mean, if it was
12 after, I'm sure everybody knew about it. You know,
13 either -- I mean -- I mean, when they got there did
14 someone say, Maggie, they're here so that I would be
15 put on notice? No.

16 Q When did you first become aware that there
17 were investigators in Mr. Foster's office?

18 A Probably from the news or probably if it
19 had been decided the previous day, I would have
20 known.

21 Q All right. Now focusing your attention on
22 the period of time from, let's say, 1:00 in the

1 afternoon on the 22nd on, when is the first time you
2 had a conversation with somebody or did something in
3 connection with Mr. Foster's office?

4 A It was a call from Bernie Nussbaum.

5 Q And do you remember when you got that call?

6 A Well, I want to think that it's like around

7 4:00, 4:30.

8 Q And what did he --

9 A He called me and said -- I was in room 100.

10 Q Which is room 100?

11 A The Old Executive Office Building. I was
12 across the street. And he called me, and he said I
13 have -- I have or -- I have their personal files or I
14 have the Clinton's personal files; get them to Bob
15 Barnett. Or will you get them -- but, you know, that
16 was the gist of it. And I said okay. I'll be over
17 in a little while.

18 Q And so what did you do?

19 A Probably took a few more phone calls, and
20 then walked over to the office.

21 Q And what happened?

22 A I walked into the office and every drawer

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1 was out, everything was, you know, all out.

2 Q This is Mr. Foster's office?

3 A In Mr. Foster's office.

4 Q Who was there?

5 A Bernie Nussbaum, and I'm almost sure that
6 Vince's secretary was there.

7 Q Deborah Gorham?

8 A Yes, Debbie Gorham, right. And either --
9 and I'm not sure about this -- either there were a
10 stack of files on the coffee table in front of
11 Vince's couch that were just in a stack that Bernie
12 pointed to. I don't know if they were in a stack or
13 in a box or if I got the box and put them in there,
14 but there were some files that had been designated by
15 Bernie as personal because he pointed them out to
16 me. And then he said to me, this is, you know, these
17 are the files to get to Barnett, and -- oh, before I
18 left my -- before I left my office in room 100, I'm
19 sure I called Barnett to tell him that I was going to
20 get files.

21 Q Did you reach Barnett?

22 A I'm pretty sure I got Bob Barnett the first

1 time.

2 Q And what did you tell him?

3 A That I'm supposed to be sending the
4 personal files of the Clintons to you, and he said,
5 well, when you're ready, I'll send somebody over to
6 get them. Then I went over to the office, saw the
7 files, and I remember Bernie said to me look around.
8 He said I think I've got everything, but you might
9 recognize something that I don't recognize.

10 And actually I was looking because I knew
11 Vince was working on the blind trust. I was looking
12 for something that said Chelsea or Rodham or
13 something like that. And I located something that
14 was in a file drawer. Oh, it was easy. I think it
15 said "taxes" on it. And I put them --

16 Q In the drawer?

17 A Yeah, well, all the drawers were out. And
18 huge stacks of files were sitting everywhere.

19 Q But there were also files in the drawers
20 still?

21 A Not many. But this one was in the drawer
22 because I looked around. It reminded me of the kind

1 of hotel check you do when you're ready to get out of
2 there, you know, you're looking everywhere, and that
3 was kind of what I was doing. And I looked around
4 and I saw something that said taxes. And I just
5 picked it up; I thought taxes sounded personal. And
6 I just put it on the stack, if there was a stack, or
7 I put it in the box if there was a box.

8 Q Did you consult with Mr. Nussbaum about
9 that?

10 A No. I just put it on.

11 Q Did you look at the tax returns?

12 A Oh, no. It was just -- it seemed like it
13 just had "taxes" written on it like the file part of
14 it.

15 Q How did you know it was the Clintons's
16 taxes?

17 A I didn't know; I just assumed.

18 Q How do you know it wasn't Mr. Foster's
19 taxes?

20 A Oh, it could have very well been.

21 Q You didn't want to check to see whether it
22 was Mr. Foster's taxes or the Clintons's taxes before

1 you sent it over to the Clintons?

2 A Well, I have to tell you, at the time I
3 wasn't making a connection except with the Clintons
4 in my head. And I figured that if Bernie asked me to
5 check around to see if there was anything else that I
6 might see that had to -- I just saw it, and I picked
7 it up.

8 Q Where was Mr. Nussbaum at that point?

9 A I think he was in the, you know, standing,
10 like, in the doorway or something.

11 Q And did you say, Bernie, I found something
12 marked "taxes"; what should I do with it?

13 A I put it on the stack of files. I put it
14 on the stack of files.

15 Q And then what happened?

16 A I may -- I remember having a discussion
17 with him about the renovation files. And I said
18 should I take the renovation files, and he said no,
19 that has to do with the White House counsel's
20 office. So I remember that was the only discussion,
21 and then I remember either leaving to get a box or
22 leaving because I took a few more calls. Either

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1 the -- either Mrs. Clinton's secretary or Bernie's
2 secretary or Vince's secretary heard that there were
3 calls for me because the offices were next door. And
4 I remember taking a bunch more calls before coming
5 back into the room to actually pick them up.

6 Q Now the taxes file, was that actually in a
7 file drawer in Mr. Foster's desk?

8 A It wasn't a desk. There was -- you see how
9 you have the book shelves here and the last two
10 shelves are drawers, so it's over off to the side.

11 Q Was that particular drawer filled with
12 other files?

13 A No. I don't remember. Everything pretty
14 much was out, it seemed to me.

15 Q Now, you came back from returning the phone
16 calls, and you say you brought a box back also?

17 A Well, I'm not clear about that. I don't
18 know if the box was already there or if I went and
19 brought a box to pack them in.

20 Q And then what did you do?

21 A Well, part of what I had done most of the
22 day -- I mean, I was exhausted. I had been back and

1 forth on whether or not I would go to Vince's funeral
2 because I just -- you know, I didn't think I was up
3 to it or could do it. And I know that part of the
4 calls I was taking could have been you should go, you
5 should go, whatever.

6 Anyway, I decided to go, and we were
7 leaving the next morning at 7:00 or 7:30. I forget.
8 I was really tired. By this time I really believe it
9 was 5:30 or 6:00; in my own mind that's how I think
10 of the time, 5:30 or 6:00, I mean, maybe even later,
11 but I know I had fooled around on the phone between,
12 you know, actually getting the files over to Bob
13 Barnett. And I thought by the time Bob Barnett sends
14 somebody over here and they get through clearance at
15 the White House to come and take the boxes, I will be
16 sitting around here, and I don't want to do that.

17 So I know I called; I don't know if I got
18 Bob Barnett -- I may have gotten Bob Barnett on the
19 phone, or I got Sylvia, his person who works, the
20 woman who works for Bob Barnett. In any event, I
21 told him to forget about sending anybody, that I
22 would just get them back when I got back from the

1 funeral.

2 Q Did you explain why?

3 A I don't know. I may have. I may have said
4 something like it's getting too late and I've got to
5 go. I don't remember exactly what I said. I'm sure
6 they would probably want an explanation. So I said
7 something like that. And then -- but then the files
8 were, nevertheless, there.

9 Q Where?

10 A In Vince's office. And they weren't
11 going --

12 Q And Mr. Nussbaum was still waiting there?

13 A No. I don't know where Bernie was right
14 then.

15 Q So there was no one in the office?

16 A No, not when I went back into -- I mean,
17 there were people in the reception area, everybody
18 who was there, but I went in Vince's office to
19 retrieve the files, and I guess I talked to Sylvia or
20 Bob in that office.

21 Q Which office?

22 A In Vince's office. I may have made the

1 call from there. And then I thought what am I going
2 to do with these files, and then I said, well, I'll
3 put them in the residence.

4 Q Now let me stop you. You made the call to
5 Mr. Barnett's office either from your office in the
6 west wing or from Vince Foster's office?

7 A I think from Vincent Foster's office, and I
8 could have made it from one of the secretarial desk.
9 Or I could have made it from Pam's desk, but I have
10 this feeling that I made the call right there.

11 Q When you say "Pam's desk"?

12 A I mean, that was in Mrs. Clinton's office.
13 The offices line up 1, 2, 3, 4, and since I was going
14 back between, I would have stopped wherever there was
15 a phone.

16 Q So it could have been your office, it could
17 have been the outer office to Mrs. Clinton or --

18 A I think it was Vince's office.

19 Q So you come back in and the boxes are
20 packed at that point and filled?

21 A It doesn't seem to me they were ever really
22 filled. It seems like it was a box and it was, you

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1 know, some files.

2 Q One or two boxes?

3 A One box. One box.

4 Q Are you sure about that?

5 A Well, I wasn't sure because I started
6 reading newspaper accounts that said something about
7 two boxes. So I have been trying to figure out this
8 box thing. And the best way that I could do it was
9 to -- to go back and take a picture at the end of it,
10 instead of at the beginning of it.

11 And the closet in the Clintons is very
12 shallow, for one. It's as wide or the depth of that
13 book case, and I got -- I always was trying to figure
14 out if it was two boxes or one box because I got
15 somebody to help me carry the box. But I realize I
16 must have had other stuff that I had to take some
17 place. So I'm now pretty clear it was one box, that
18 there was just a box.

19 Q So the box is in Mr. Foster's office and
20 Mr. Nussbaum is not there?

21 A Right. Not when I went back in, no.

22 Q And you picked up the box?

1 A Either I packed files or I pick up a box
2 that's packed. I just don't know what.

3 Q And then what?

4 A I have something else with me because I
5 have to get somebody to help me.

6 Q What else do you have with you?

7 A I don't know. But there's something else
8 with me. And I don't know for sure. It has, of
9 course, been suggested to me by my counsel --

10 MR. DODDS: Wait a minute. Hold on a
11 second. Don't talk about anything that you and I
12 have discussed.

13 THE WITNESS: Okay. Sorry.

14 MR. DODDS: Let me take a minute. Because
15 I want to know what it was I suggested.

16 (Discussion off the record.)

17 THE WITNESS: All right. I had something
18 else in mind.

19 BY MR. CHERTOFF:

20 Q All right. What did you do?

21 A Get on the elevator -- oh, no, no, no, no.
22 So, the boxes. These are the calls that I make. I

1 made a call to Sylvia. I made a call to Hillary --
2 Sylvia in Mr. Barnett's office. I make a call to
3 Hillary.

4 Q And she's where?

5 A In Arkansas.

6 Q Where in Arkansas?

7 A I don't know because I probably went
8 through Signal, and they just found her.

9 Q And what's your conversation with her?

10 A I tell her that I was sending the boxes to
11 Bob Barnett, but it's getting late, and I'm tired,
12 and I'm going to take them to the residence; where
13 should I put them.

14 Q What did she say?

15 A She says call Carolyn Huber.

16 Q So what did you do?

17 A I called Carolyn Huber.

18 Q And then what happens?

19 A I called Carolyn Huber --

20 Q This is all from Vince Foster's office?

21 A Well, I think so. I mean, I think so.

22 Q But you were not using a cell phone for

1 this?

2 A No.

3 Q You were using a hard line?

4 A Yeah.

5 Q What happens next?

6 A For some reason -- so I call Carolyn Huber,
7 and I don't know if Mrs. Clinton says call Carolyn
8 Huber, there's a closet or whatever, or if she says
9 call Carolyn Huber. But, you know, so I say I talked
10 to Hillary and she wants the files and says that
11 you'll know where to put them, put them in a closet
12 or whatever. And I get an intern to help me with the
13 files.

14 Q Who is that?

15 A He's not an intern now, I found out; Tom
16 Castleton.

17 Q How did you arrange for that?

18 A It wasn't a big arrangement. I mean, he
19 was just sitting at the desk and I probably said come
20 help me do that.

21 Q So he came into Mr. Foster's office with
22 you?

1 A Uh-huh.

2 Q You both carried the files out?

3 A Well, I had something else, but he had the
4 box.

5 Q Did you make a stop at your office on the
6 way to the residence?

7 A Or in Hillary's office, I don't know. I
8 don't know if I brought in what I had to Vince's
9 office; I don't know.

10 Q What do you mean if you brought in what you
11 had?

12 A Like I said, it wasn't just the box I was
13 carrying over; I was carrying over something else.
14 So I don't know if I had it in Vince's office or got
15 it from some place else. I just don't know.

16 Q Okay. So you may have left Vince Foster's
17 office, stopped to pick something up in your office
18 and then gone to the residence?

19 A "May have" is correct. I mean, I would
20 really be making it up if I tried to tell you
21 specifically. I just don't know. But all those are
22 possible.

1 Q Do you have a sense -- this is another
2 thing that you were going to take up to the
3 residence?

4 A Yeah.

5 Q Whose instruction was that?

6 A Probably just something I knew. There were
7 all kinds of things that go back and forth there.

8 Q Was it papers?

9 A No.

10 Q Was it a thing?

11 A Yeah. I think it was some things. There
12 are all kinds of goofy things that come -- well, not
13 necessarily goofy, but things that come to
14 Mrs. Clinton's office in the west wing that don't
15 necessarily belong there. They can be from fruit
16 baskets that go to the gift unit to signed books from
17 people to clothes that come in. So, I mean, you
18 know, and if I see it and I'm going there, I would
19 take it.

20 Q So with the files and Mr. Castleton and
21 this other material, you then go over to the
22 residence; correct?

1 A Uh-huh.

2 Q And tell us what happened; tell us how you
3 did that.

4 A Took the elevator and went to the ground
5 floor of the residence. And Carolyn Huber was on the
6 ground floor in front of the doorway that would go to
7 the elevator that would take us to, ultimately, the
8 closet. And she was waiting, and she was very
9 impatient about it.

10 Q And what happened?

11 A We went up to the third floor, and Carolyn
12 opened the closet.

13 Q What room was it?

14 A I don't know if it has a name. It's a room
15 where -- at that time it was a room where they
16 were -- they still weren't unpacked. It was a room
17 that was still full of boxes and stacks of books and
18 stuff because this is probably, you know, more of a
19 personal floor than anything else, I guess. So the
20 room is pretty much a mess and there was a small
21 closet inside this room. And so Carolyn Huber opened
22 the closet and it seems to me she had to make some

1 kind of an arrangement because it was very small and
2 there were other boxes in there. And the box was set
3 there.

4 Q How did you know to put it in that closet?

5 A How did I know? I didn't know.

6 Q Who made the decision that it would be put
7 in that closet?

8 A That's what I said. Carolyn Huber either,
9 at the point in time -- like I said, I don't know
10 whether Mrs. Clinton said to me put it in the closet
11 on the third floor, talk to Carolyn or whether she
12 said call Carolyn to see where to put it.

13 Q Was it your impression from either
14 Mrs. Clinton or Carolyn that there had been some
15 discussion between them about this?

16 A No. I mean -- Carolyn pretty much on my
17 say so would, you know.

18 Q So when you called Carolyn, she didn't
19 express surprise?

20 A Huh-uh. If I said Mrs. Clinton said to
21 call you about it, she would pretty much do it.

22 Q I think I promised Mr. Ben-Veniste we would

1 take our lunch break at noon, and this is actually a
2 good time for me to pause. Okay?

3 (Whereupon, at 12:03 p.m., the deposition
4 was recessed, to be reconvened at 1:15 p.m. this same
5 day.)
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1 AFTERNOON SESSION (1:22 p.m.)

2 Whereupon,

3 MARGARET A. WILLIAMS

4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as follows:

6 EXAMINATION (Continued)

7 BY MR. CHERTOFF:

8 Q Ms. Williams, I would like to direct your
9 attention now back to July 22nd, again in the period
10 of the afternoon about which you've testified in
11 general terms.

12 A Thursday.

13 Q I'm sorry. Thursday. I apologize,
14 Thursday afternoon, which was July 22nd, about which
15 you testified in general terms. Before Mr. Nussbaum
16 called you, had you received messages from Mr. Burton
17 and Mr. Neuwirth?

18 A About?

19 Q If they had called?

20 A Oh, I don't remember.

21 Q I'm going to refresh your memory by showing
22 you what's been marked as Z951, Bill Burton to

110

1 Maggie, 7/22/93, 3:05. Do you know who AG is on the
2 bottom, who would have signed that?

3 A Probably a volunteer.

4 Q And do you recognize the extension?

5 A Huh-uh.

6 Q Do you remember talking to a Burton on that
7 day?

8 A I don't remember talking to him. But -- I
9 mean, I know Bill Burton.

10 Q Did you know on that day, Thursday, July
11 22, Bill Burton had been present when Mr. Nussbaum
12 reviewed Mr. Foster's documents in the presence of or
13 in the vicinity of law enforcement officers?

14 A Yeah, I think I knew that.

15 Q Does it help you to remember that he called
16 you that, that he wanted you to come over to
17 Mr. Foster's office?

18 A At 3:05?

19 Q Yes.

20 A No.

21 Q Did you talk to him after you got this
22 message?

1 A I don't remember talking to him.

2 Q Now, I'm going to show you what's been
3 previously marked as Z953 and this is 7/22/93, 3:25,
4 to Maggie from Steve Neuwirth at 2632. And that
5 requested you call as well. Do you remember talking
6 to Mr. Neuwirth?

7 A I don't remember talking to him, but, I
8 mean, I could have.

9 Q Do you know if Mr. Neuwirth had been
10 involved in the review procedure earlier in the
11 afternoon in which law enforcement people were
12 present while Mr. Nussbaum reviewed the files?

13 A No.

14 Q Do these two messages help to indicate to
15 you that before Mr. Nussbaum called you, you had been
16 called by two other people who were trying to track
17 you down?

18 MR. DODDS: I'm sorry. Could you repeat
19 the question.

20 (The reporter read the record as requested.)

21 MR. DODDS: You were asking to conjecture
22 about why these other people called her.

1 MR. CHERTOFF: I'm asking her to recall
2 whether or not she knows people were trying to reach
3 her with some degree of urgency that afternoon after
4 3:00.

5 THE WITNESS: I don't know about the
6 urgency part of it, but, I mean, when I come in and
7 out of my office, I can have a stack of messages from
8 this day this big and start going through them or not
9 or be interrupted. So I mean, I don't have any
10 argument that they were trying to reach me; it's
11 clear; but I don't remember them calling me in
12 conjunction with Bernie Nussbaum's call.

13 BY MR. CHERTOFF:

14 Q Now, Mr. Nussbaum, did you call him or did
15 he call you?

16 A Bernie called me.

17 Q And he said to you that he wanted you to
18 come to Mr. Foster's office?

19 A Yeah, that he -- I don't know if he said
20 come to Mr. Foster's office. I know that he said I'm
21 going to give you the personal files to give to Bob
22 Barnett.

1 Q And you were in the Executive Office
2 Building?

3 A Yeah.

4 Q Did you say what personal files?

5 A No.

6 Q Did you ask him what he was talking about?

7 A Well, he said the Clintons's personal
8 files.

9 Q Did you ask him where those personal files
10 were?

11 A No, I didn't, but the "come and get," I
12 knew he wasn't in my office, he was in his office.

13 Q Did you wonder why there were personal
14 Clinton files in Mr. Nussbaum's office?

15 A I did not wonder at all.

16 Q I want to try to get as full as possible a
17 description of this conversation. Mr. Nussbaum calls
18 you up and he says to you what?

19 A I don't know every word he said to me. But
20 as I understood it, Clintons's personal files; I want
21 you to come get them and get them to Bob Barnett.

22 Q Did you know where he was calling from?

1 A I assumed he was calling from his office.

2 Q Did you know where the files were located?

3 A I assume they would be, since he didn't say
4 differently, in his office.

5 Q In Mr. Nussbaum's office?

6 A Well, yeah, in the office.

7 Q Did you know why he wanted to have them
8 moved to Mr. Barnett?

9 A No.

10 Q Did you ask him any questions about it?

11 A No.

12 Q Did you know what the nature of the
13 personal files were?

14 A No.

15 Q Did you call Mr. Barnett?

16 A Yes.

17 Q What did you say to Mr. Barnett?

18 A That I'm going to try and get the
19 Clintons's personal files over to you.

20 Q Did he say what personal files?

21 A No, he did not.

22 Q Did he express any surprise that there were

1 personal files that had to be received?

2 A No, he didn't seem surprised.

3 Q Did he indicate to you in his answer or did
4 you get the impression from his answer that he would
5 be expecting a call from you about the personal
6 files?

7 A I -- I didn't have any -- I mean, he didn't
8 seem surprised. I don't know if he was expecting a
9 call from me, but he didn't question me about it.

10 Q Did you say you were going to send the
11 files over or that he should send somebody to pick
12 them up?

13 A Well, I said I'm going to get them over to
14 you, and that's when he said we'll send somebody to
15 pick them up.

16 Q Did he ask how many files there were?

17 A No.

18 Q Did he ask you whether he should send one
19 person or two people or three people?

20 A No, he didn't.

21 Q Did he ask whether he should send a truck?

22 A No. But I remember him saying -- no. I

1 don't remember him saying that. I told him I was
2 going to get the files over to him. And he said
3 we'll send someone to get the files. I must have
4 said I'll call you back when they're ready.

5 Q Did you indicate a time frame within which
6 they would have to be picked up?

7 A No.

8 Q Did you say to him they should be picked up
9 today?

10 A No, I didn't.

11 Q Did you say they should be picked up this
12 week?

13 A No, I did not.

14 Q Did you ask him to provide you with the
15 date of birth and the Social Security number of the
16 messengers so you could have that person cleared
17 through the White House?

18 A Not at that point.

19 Q You then went over to Mr. Nussbaum's
20 office?

21 A Right.

22 Q And that's in the west wing; right?

1 A Right.

2 Q And when you went over there and you walked
3 in, Mr. Nussbaum was in Mr. Foster's office; correct?

4 A Yes.

5 Q And Ms. Gorham was there; right?

6 A Yes.

7 Q And Mr. Nussbaum was in the process of
8 looking at documents or he had completed looking at
9 documents?

10 A It seems to me he had completed; he wasn't
11 looking at documents.

12 Q So he was standing there with documents
13 that were piled up on the desk?

14 A Well, there was -- there was some on a
15 desk. There was some on the bureau. There were
16 piles of folders.

17 Q And there were also opened drawers?

18 A Uh-huh.

19 Q And in the open drawers there were some
20 files; correct?

21 A In the one that I went to, there was
22 definitely files.

1 Q More than one file?

2 A A few. But they weren't full. Everything
3 seemed to have been -- I don't know if they were
4 laying flat or standing up. But everything was out.

5 Q Now, did Ms. Gorham actually come into the
6 room, Mr. Foster's room, after you and Mr. Nussbaum
7 were already there?

8 A I don't know.

9 Q So that's a possibility?

10 A Yeah, I guess it is.

11 Q And do you recall when she came in that you
12 and Mr. Nussbaum were in the process of reviewing a
13 file drawer in what you previously described as a
14 file cabinet below the bookcases behind the desk in
15 which there were personal documents?

16 A Could you ask -- I'm sorry.

17 MR. CHERTOFF: Can I get it repeated.

18 (The reporter read the record as requested.)

19 THE WITNESS: I wasn't reviewing files with
20 Bernie.

21 BY MR. CHERTOFF:

22 Q Was he reviewing files in your presence?

1 A When I came in it seemed pretty much
2 settled. Like I said, I can't recall if he had the
3 files boxed that he pointed to or designated as the
4 files that he wanted me to get to Barnett or whether
5 or not they were just in a stack on the table. But
6 it seemed like whatever he was doing, it was done. I
7 mean, it wasn't going through anything.

8 Q Did Mr. Nussbaum call in Ms. Gorham and ask
9 her to help him compare the categories of certain
10 files or the labels on certain files while he looked
11 at the documents in the folders?

12 A You have to ask me -- compare the
13 categories?

14 Q I withdraw the question, and I'll rephrase
15 it this way: Did Mr. Nussbaum call in Ms. Gorham and
16 ask for a listing of what was contained in the drawer
17 which contained file folders of the President's
18 personal and financial matters?

19 A Oh, I don't -- I don't recall that. I
20 mean, he may have had a conversation with her. I
21 wasn't -- I just don't remember.

22 Q So you don't remember one way or the other?

1 A Huh-uh.

2 Q Do you remember her starting to read from
3 the labels on top of the files to Mr. Nussbaum
4 pertaining to the drawer containing the Clintons's
5 financial records?

6 A I don't remember any of that.

7 Q Do you remember at that point Mr. Nussbaum
8 saying to Ms. Gorham she could leave and that you two
9 would handle this yourselves?

10 A I don't remember that, but it's possible.
11 I don't remember any kind of reading or process or
12 anything like that. The most process there was was
13 me taking a look around and pulling that file. There
14 was no, you know, process or -- that was going on.

15 Q Now, I want to be quite clear on this. Are
16 you saying you don't remember whether Ms. Gorham came
17 in and had this discussion with Mr. Nussbaum, or are
18 you saying that didn't happen?

19 A Well, I don't remember. I do not remember
20 any big conversations going on between them. I do
21 remember that, as I said before, that Debbie was in
22 the office. But I do not remember anything involving

1 reading categories or if she was in the act of
2 reading when I got there or anything like that.

3 Q You don't remember one way or the other?

4 A No.

5 Q And do you remember seeing a file marked
6 "Whitewater"?

7 A No.

8 Q Do you remember Mr. Nussbaum comparing the
9 notations on top of the file folders with the
10 contents of the files?

11 A Mr. Nussbaum comparing the --

12 Q The notations on the top of the file
13 folders with the contents of the files.

14 A No. I mean, I know you have to ask all
15 these questions, but I can tell you that I don't
16 remember any of this. This seems like too much
17 detail for the point that I was there.

18 Q And do you remember him looking at any
19 documents in particular?

20 A No.

21 Q Now -- your testimony is that he tells you
22 to take a look around and see if there are any more

1 personal documents?

2 A Like he said something like eyeball and see
3 if I may have I missed something. You might
4 recognize something I didn't recognize right away.

5 Q At that point in time you had no knowledge
6 of what personal matters Mr. Foster was working on
7 except for this trust issue; is that correct?

8 A Yes, just the trust.

9 Q Did you say to Mr. Nussbaum I don't really
10 know what Mr. Foster is working on except for the
11 trust issue?

12 A No, I eyeballed.

13 Q Where did you start to eyeball?

14 A I looked around on the desk, and I looked
15 at the open drawer. It wasn't fastidiously done.

16 Q When you looked at the open drawer, did you
17 look at all the different file folders in the open
18 drawer?

19 A There weren't that many, but I do remember
20 seeing taxes and whether or not they were laying down
21 or standing up, I don't know. But I remember seeing
22 the word "taxes" on the tab. So they could have

- 1 been -- I mean, it was a cursory look.
2 Q And you physically picked up that file?
3 A Yes.
4 Q And you put it on the pile of documents to
5 go to the Clintons?
6 A Either on the pile or the box.
7 Q And you said to Mr. Nussbaum I'm pulling
8 this marked "taxes"?
9 A No, I did not say that.
10 Q You didn't say anything to Mr. Nussbaum?
11 A No, I just pulled it and put it on there.
12 Q And did Mr. Nussbaum go over to it?
13 A Not while I was there.
14 Q To your knowledge, you didn't look at it?
15 A To my knowledge, no.
16 Q And you didn't look at the inside of it?
17 A No.
18 Q So, at that point in time you didn't know
19 whether it was Mr. Foster's taxes or the Clintons's
20 taxes?
21 A Right. As I said before, I didn't know.
22 Q And you would agree with me that there's no
-

- 1 particular reason to send Mr. Foster's taxes to the
2 Clintons?
3 A Oh, no. I would agree with you. But I
4 would also say that if he said look around, and he
5 had already used the words "Clintons's personal
6 files," I just assume if I'm looking around I
7 wouldn't be looking for Vince Foster's personal
8 file. So I saw something marked taxes. Maybe it was
9 sloppy thinking, but it didn't cross my mind once
10 that was Vince's taxes.
11 Q How long did you spend in the room with
12 Mr. Nussbaum while this procedure was going on?
13 A I don't know. It wasn't -- didn't seem to
14 be all that long. It didn't seem all that long, and
15 then I was in and out.
16 Q And was Mr. Nussbaum there the entire you
17 were there, or did he leave at one point in time?
18 A Well, I went out to get some calls and then
19 when I came back in, he wasn't there.
20 Q Was he in his own office?
21 A I don't know. He may have been. I didn't
22 look in to see; I just went back into Vince's office.

1 Q Was it your understanding that Mr. Nussbaum
2 knew Mr. Barnett?

3 A I'm sorry?

4 Q Was it your understanding that Mr. Nussbaum
5 knew Mr. Barnett?

6 A Uh-huh.

7 Q Did you ask Mr. Nussbaum why he didn't call
8 Mr. Barnett to pick up the files?

9 A No, I didn't.

10 Q Did it occur to you to wonder why he didn't
11 call up Mr. Barnett?

12 A No, I didn't. I just thought there must be
13 a lot to be done, and Bernie is asking me to do
14 something that's, you know, so minuscule, I mean, I
15 don't know how many calls he has to make or what he
16 was doing. I thought he was asking me to help out.

17 Q And during this process Ms. Gorham was in
18 the suite; right?

19 A Yeah, I mean -- as -- now because that
20 coffee table is in front of that couch, you can't
21 really see. I don't know who was there the entire
22 time or whatever. But I just -- when I would come

1 out, I would see her.

2 Q And you know Mr. Castleton was around that
3 afternoon?

4 A Uh-huh.

5 Q And you had to come over from the Executive
6 Office Building to engage in this process?

7 A Right.

8 Q And you were busy that day; right?

9 A I'm busy every day.

10 Q But it was particularly busy because you
11 were in the process of deciding whether you were
12 going to go to Little Rock; right?

13 A Yes.

14 Q There were a lot of telephone calls and a
15 lot of people who had to be put on the passenger list
16 to go out with the President?

17 A Uh-huh.

18 Q You were involved in that process, too?

19 A Uh-huh.

20 Q You, in fact, had to leave Mr. Nussbaum's
21 office at periods of time to return phone calls?

22 A Right.

1 Q And you didn't say to Mr. Nussbaum could we
2 have Ms. Gorham work out the arrangements or could we
3 have Mr. Castleton work out the arrangements?

4 A No. What I thought was if Bernie wants me
5 to do something, I'll do it. I figured it was --
6 no. This is -- this was not a period of structure
7 and responsibility. Bernie was as freaked out by
8 Vince dying as anybody. I mean, he was shaken up by
9 it. And if Bernie had asked me to drop everything
10 and come and wash down his walls, if I thought it
11 would be helpful to him, I would have done it.

12 Q Did he seem freaked out to you on that
13 afternoon?

14 A He didn't seem any more freaked out as
15 usual, but I have to tell you my own intuition told
16 me this was not a good day for Bernie Nussbaum.

17 Q Did you make a suggestion that perhaps the
18 whole issue of reviewing the files ought to be
19 deferred until the next week?

20 A No, that's far too rational for me to have
21 done.

22 Q Now, after you go out and you return phone

1 calls, you come back into the office and Mr. Nussbaum
2 is not in that office; right?

3 A Yeah. I don't remember him being there.
4 Or he was in and out. But I remember there was a
5 time when I was in the office by myself.

6 Q And how long was that?

7 A Long enough either to put them in a box or
8 to get a top for a box. I remember looking for a
9 top. Because the Xerox room is not far from there.
10 I remember looking for a top and not that long
11 because the next thing was, to think about -- I made
12 some calls there. I had to call Huber, Carolyn
13 Huber. I had to call Sylvia in Bob Barnett's office.

14 Q What was the order in which you made the
15 calls?

16 A Probably Sylvia first or Bob Barnett. Then
17 Mrs. Clinton, then Carolyn Huber.

18 Q And when you called Sylvia in Mr. Barnett's
19 office, is it your recollection that you talked to
20 Sylvia or Bob Barnett?

21 A I don't remember which.

22 Q And you told them what?

1 A Probably -- I probably said that they're
2 not going to be ready. There's no way anybody can
3 come pick it up, or I'm not going to wait for
4 somebody to come.

5 Q They were packed and ready at that point;
6 correct?

7 A Right. But you would have to get somebody
8 cleared. They would have to come over. Who knows
9 when they would actually get into the White House.

10 Q How long does it take to get someone
11 cleared?

12 A It depends on who is at the gate and what
13 gate. People have waited for very long times
14 especially somebody who doesn't have an ID, the
15 messengers especially get hassled more than others.
16 So I just didn't want to be hanging around.

17 Q Well, did you ask Sylvia or Mr. Barnett
18 whether Mr. Barnett himself could accompany someone
19 over?

20 A No, I did not.

21 Q Did you suggest the possibility of
22 Mr. Castleton taking the documents over to Williams

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1 and Connelly?

2 A I made no suggestions like that.

3 Q And did you have any discussion with Sylvia
4 or Mr. Barnett about what the logistics could be for
5 how quickly someone could come over?

6 A No. I simply said I'm not waiting around,
7 or they're not going to be ready; I'm not waiting
8 around for anybody. We'll have to do this another
9 time.

10 Q And that was that?

11 A Uh-huh.

12 Q And then at that point you -- did you talk
13 to Mr. Nussbaum?

14 A No, I did not.

15 Q You called Mrs. Clinton?

16 A Uh-huh.

17 Q And did you get through to her immediately?

18 A However long it takes Signal to figure out
19 where they are. It didn't seem like forever, but
20 they generally can get to them.

21 Q And what did you say to her?

22 A I said I was supposed to send the files to

1 Barnett. I'm not going to get around to it; I'm just
2 really exhausted; I don't want to wait around
3 anymore. Something to that effect. I said I'm going
4 to take them to the house; where do you want me to
5 put them.

6 Q What did she say?

7 A She either said call Carolyn Huber or she
8 said Carolyn has a closet she uses on the third floor
9 for stuff; call Carolyn Huber. One or the other of
10 those.

11 Q What was the whole conversation?

12 A Yeah, it was fairly quick.

13 Q Did she say what files?

14 A No.

15 Q You called -- it's important --

16 A I said -- I'm sure I mentioned personal.
17 That's how I was calling them. I wasn't saying I'm
18 sending files over, I was always referring to them as
19 the personal files, your personal files.

20 Q Now you say "always referring to them as
21 your personal files," on what other occasions did you
22 talk to Mrs. Clinton using the term "your personal

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1 files"?

2 A Probably the day they picked them up.

3 Q The day who picked them up?

4 A Barnett's messenger, that following
5 Tuesday.

6 Q And when you say you always refer to them
7 as your personal files in talking to Mrs. Clinton?

8 A No. That's not what I said. I didn't say
9 I always referred to them as her personal files when
10 talking to Mrs. Clinton. What I was saying was I
11 always -- to me, the files that I had anything to do
12 with were personal files as against all others. And
13 so in talking about files, I would always call them
14 the personal files, whether it was to the Bob
15 Barnett, the Clinton personal files, or other ones.

16 Q So you call Mrs. Clinton up and you say to
17 her I'm not going to send your personal files over to
18 Bob Barnett today, I will put them up in the
19 residence?

20 A I said I'm going to put them in the
21 residence.

22 Q Did she say what personal files?

- 1 A No, she didn't.
- 2 Q Did she ask you where you were?
- 3 A What do you mean where I was?
- 4 Q Did she ask you where you were calling
- 5 from?
- 6 A No. Why --
- 7 Q Did she ask what you were talking about in
- 8 terms of sending files to Mr. Barnett?
- 9 A I guess when I said personal files to Bob
- 10 Barnett -- then I told her I was going to put them in
- 11 the residence because I wasn't getting them over to
- 12 Bob Barnett.
- 13 Q That was all you said?
- 14 A Yeah. I may have asked her how her day
- 15 went.
- 16 Q But concerning the files, all you said to
- 17 her was that I'm not going to get your personal files
- 18 over to Bob Barnett; I'm going to put them in the
- 19 residence; correct?
- 20 A That's what I said.
- 21 Q She didn't ask you where the personal files
- 22 were at the time; right?
-

- 1 A I don't recall her saying anything like
- 2 that.
- 3 Q She didn't ask you whether -- or you didn't
- 4 tell her you were in Mr. Foster's office?
- 5 A Why would I?
- 6 Q I'm not asking you -- I just wonder, did
- 7 you tell her you were in Mr. Foster's office?
- 8 A No.
- 9 Q No?
- 10 A I was moving boxes. Okay?
- 11 Q I have -- I'm trying to do this step by
- 12 step, so I need to get an answer to the question.
- 13 Did you tell her that you were in Mr. Foster's
- 14 office?
- 15 A No.
- 16 Q Did you -- did she ask you why files were
- 17 going to Mr. Barnett?
- 18 A No, she didn't.
- 19 Q Did she ask you what was in the files?
- 20 A No, she did not.
- 21 Q Did she express surprise about the fact
- 22 that you were handling personal files?

1 A No, she did not.

2 Q Did she -- do you think she had the
3 impression that you were -- well, let me withdraw the
4 question.

5 You made it clear to her that you were not
6 in the residence because you talked about moving
7 files into the residence; correct?

8 A Well, I don't know if that made her -- I
9 don't know if that made it clear to her. I don't
10 know what she thought, what was clear to her.

11 Q But in any case, there's nothing in the
12 conversation in which you indicated to her or she
13 asked you where these files were as you were speaking
14 to her; correct?

15 A Right.

16 Q And she didn't ask you what the files
17 consisted of; correct?

18 A I'm going to try to make this point again,
19 and then I'll continue with the questions. This was
20 not a big deal. Okay? And I'm sorry that it's
21 difficult for me to focus on these questions as a big
22 significant deal because I could have called, I

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1 believe, Mrs. Clinton that day and said I'm moving
2 three trucks into the residence. Okay? Because I'm
3 not going to get them to Bob Barnett, and she would
4 have said okay, fine, do it.

5 Plus she would have no reason to think that
6 anything that I was doing was so wild or incredible
7 that I would have to have a major explanation.
8 People were not focused on this. I wasn't focused.
9 There was no reason to have a long conversation about
10 it.

11 Q Why did you call her?

12 A Because I didn't want to leave the files
13 just anywhere in the residence because I knew the
14 President was leaving. And the words to me,
15 "personal files" -- I knew if they were important
16 enough to go to the law office and I wasn't going to
17 get them there because I didn't feel like getting
18 them there, that I wanted to put them somewhere. For
19 the same reason I put my taxes in a little metal box
20 in my house. I said to her these are her personal
21 files; they're not going to the lawyer's office for
22 whatever my reasons were. I'm going to take them to

1 your house; nobody's going to be there, where do you
2 want them put.

3 Q And she asked you no questions about what
4 the files were, where you were, why they were going
5 to Mr. Barnett or what they consisted of; correct?

6 A That's correct.

7 Q And she told you to call Carolyn Huber?

8 A Uh-huh.

9 Q And then you called Carolyn Huber. And
10 that's when you made the arrangements to take the
11 files out?

12 A That's correct.

13 Q Why didn't you leave the files in
14 Mr. Foster's office?

15 A Because here I am, Bernie Nussbaum has
16 called me to do a deed, to get these files to Bob
17 Barnett. He is expecting that they will not be in
18 the office because he has asked me to do and believes
19 I will get it done. So I know -- I've got to bring
20 this thing out to an end somewhere. Now, do I wish
21 they went to Bob Barnett that day? God knows I do,
22 but I didn't feel like it. And so I thought I'll put

1 them some place that's as good as going to a personal
2 lawyer. Bernie can be satisfied that I've taken
3 these files out and put them somewhere, and they're
4 someplace where personal files ought to be.

5 Q Now, why didn't you arrange for someone on
6 Friday to get the files over to Mr. Barnett?

7 A Well, I was leaving for a funeral, and --
8 to Arkansas, and once I went home I did not think
9 again about those files.

10 Q But while you were there in the office, did
11 you ask Mr. Castleton or Ms. Gorham to see to it that
12 the files got to Mr. Barnett?

13 A I'm a human failure; I didn't do it. I
14 should have done it. I didn't do it.

15 Q I'm not asking to you characterize
16 yourself. I'm just asking you to tell us whether you
17 did it or not.

18 A I did not do it.

19 Q Was Ms. Lieberman going to Little Rock?

20 A No, she wasn't.

21 Q Did you ask her to take care of it getting
22 it over to Mr. Barnett?

1 A No, I did not. Bernie asked me to do it.

2 Q And you took that to mean that if you
3 couldn't personally deliver to Mr. Barnett, you would
4 have to personally take it up to the residence?

5 A No. That's what you take it to mean.

6 Q Well, what did you take it to mean?

7 A What I took it to mean was I should see it
8 through.

9 Q Your way of seeing it through was not to
10 wait for Mr. Barnett to send -- or to send someone
11 with the documents to Mr. Barnett but to put it in
12 the residence?

13 MR. BEN-VENISTE: She's really testified
14 about this several times. It's getting to the point
15 where it's argumentive.

16 MR. DODDS: I think what she's saying is --

17 MR. CHERTOFF: Please --

18 MR. DODDS: I'm entitled to ask questions
19 to clarify the record.

20 MR. CHERTOFF: At the end of the
21 proceeding.

22 MR. DODDS: I choose to do it now.

1 MR. CHERTOFF: Let me say something --

2 MR. DODDS: Let me put what I have to say
3 on the record and then you may say whatever you
4 wish. I think what she's saying is that day, under
5 the circumstances, it did not have the importance to
6 her that it obviously has to everyone in this room
7 today, and she did not parse through that analysis
8 the way your questions imply. That's it.

9 MR. CHERTOFF: What the witness's testimony
10 is is going to be in the record.

11 MR. DODDS: In response to leading
12 questions, she's entitled to have the record clear.

13 BY MR. CHERTOFF:

14 Q Did you talk to Mr. Castleton about what
15 you were doing when Mr. Castleton carried the
16 documents up to the residence?

17 A About what I was doing?

18 Q Yes. Did you explain to him what was going
19 on?

20 A Other than we're taking these files to the
21 residence?

22 Q Yes.

1 A I'm sure I said that. He had to know where
2 he was going.

3 Q Did you tell him that the President or the
4 First Lady had to review the contents of the boxes to
5 determine what was in them?

6 A Why would I tell an intern that?

7 Q That's not an answer.

8 A I'm sorry; no, I don't recall. I'm sorry,
9 I do not recall that.

10 Q I want to be clear. When you say you don't
11 recall, you mean you don't recall one way or the
12 other?

13 A It's -- I don't remember. I don't remember
14 having a conversation with Tom Castleton other than,
15 you know, we're going to the residence. He had to
16 know where we were going. That was the amount of
17 that conversation as far as I --

18 Q As far as you can remember?

19 A Yeah. As far as I can remember.

20 Q Did you -- in your conversation with
21 Mrs. Clinton, did Mrs. Clinton indicate to you that
22 she or the President wanted to review the contents of

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1 the files?

2 A No.

3 Q No?

4 A The conversation that I had with her was
5 about putting the files some place.

6 Q My question, though, to be clear, is did
7 the First Lady tell you that she or the President
8 wanted to personally review the contents of the
9 files?

10 A No, she did not.

11 Q And that's a definite no. That's not an I
12 don't remember?

13 A I don't recall her saying that to me.

14 Q Did you see Mr. Nussbaum later that day?

15 A No. I think the next time I saw Bernie
16 was -- maybe I saw him at the funeral. I don't
17 remember if I saw him at the funeral.

18 Q Now, when you were in the office that
19 Mr. Foster had occupied, did you see a briefcase?

20 A No. No.

21 Q Did Mr. Nussbaum say anything to you about
22 a briefcase?

- 1 A No.
2 Q Did he say anything to you about a torn-up
3 note?
4 A No.
5 Q Did you see a torn-up note?
6 A No.
7 Q Did he indicate to you that he had found a
8 torn-up note?
9 A No.
10 Q Did he piece together a torn-up note in
11 your presence?
12 A No.
13 Q Did he tell you he had pieced together a
14 torn-up note in your presence?
15 A No.
16 Q Did he give you a copy of what had been a
17 torn-up note, a pieced-together, torn-up note?
18 A No.
19 Q Did he tell you any note or notes had been
20 found in the briefcase?
21 A No.
22 Q You came back from Little Rock on Friday --
-

- 1 A Right.
2 Q -- night; correct?
3 A Right.
4 Q Were you in Washington, D.C. on Saturday
5 and Sunday?
6 A Yes.
7 Q Did you have contact with the President or
8 the First Lady on Saturday or Sunday?
9 A No, I don't think so.
10 Q No --
11 A No, I don't think so.
12 Q No communication of any sort?
13 A Not that I can recall. I don't recall.
14 Q And when did you take the next step in
15 terms of handling the documents which had been put in
16 the residence in that closet?
17 A When I saw Bob Barnett.
18 Q Which was when?
19 A Tuesday.
20 Q Tuesday?
21 A Tuesday.
22 Q That would be the 27th of July?

- 1 A Okay. Yes.
2 Q And how did you come to see Mr. Barnett?
3 A He had come to see Mrs. Clinton.
4 Q About what?
5 A I don't know.
6 Q He was in the residence?
7 A Yeah, he was in the residence.
8 Q And you were called?
9 A No. I had come up to the residence for
10 something else.
11 Q And you bumped into him?
12 A Yeah, I saw him. And he said you know
13 what? It would make sense to get those documents
14 over to the office.
15 Q And so what did you do?
16 A He called someone.
17 Q Who was that?
18 A I don't know his name, but --
19 Q A messenger?
20 A No. I think he was -- I think he was an
21 attorney.
22 Q From Williams & Connolly. And he made that
-

- 1 call from the residence?
2 A Yes.
3 Q How long did it take this person to get
4 cleared through?
5 A Maybe a half hour or so.
6 Q Did you wait there with Mr. Barnett while
7 that happened?
8 A Yeah. I may have -- well, probably in and
9 out. I may have gone to do something and come back
10 in. They were having a conversation, Mrs. Clinton
11 and Mr. Barnett. But I had the key.
12 Q The key to the closet?
13 A Right.
14 Q So Mrs. Clinton and Mr. Barnett were
15 waiting in the residence for about a half an hour
16 while this person came from Williams & Connolly;
17 right?
18 A Yeah. I'd say it was about half an hour.
19 Q And then this person came in; right?
20 A Uh-huh.
21 Q And then what happened?
22 A I got on the elevator with him. I had

1 them -- I called somebody to get him cleared. He
2 came to the usher's office, which is where guests
3 go. The ushers called up to the residence. I picked
4 up the phone; they said the guy was there. I went
5 and got him, took him up to the third floor, opened
6 the closet and told them that was the box.

7 Q And where was Mr. Barnett and the First
8 Lady at this time?

9 A They were still down on the second floor.

10 Q And what happened after this person had
11 retrieved the box?

12 A I took him back down to the usher's office.

13 Q Did you stop and see Mr. Barnett or
14 Mrs. Clinton at that point?

15 A No.

16 Q And that whole operation of going up to
17 pick up the box and have this person leave took about
18 15 minutes?

19 A Yeah, if that.

20 Q Did you then go back and talk to
21 Mr. Barnett and Mrs. Clinton?

22 A No. I just think I did whatever else I was

1 doing.

2 Q You didn't arrange for Mr. Barnett to come
3 over on that Tuesday; correct?

4 A I may have cleared him through.

5 Q You didn't ask him to come over?

6 A Huh-uh.

7 Q You didn't call him on the Monday, did you?

8 A I may have talked to them on Monday. I
9 don't remember it. But I don't remember calling him
10 on Tuesday. But I may have cleared him in.

11 Q Well, you had the box in the residence.
12 Did you call on Monday morning to get the box picked
13 up?

14 A I didn't think about that box until I saw
15 Bob Barnett.

16 Q On Tuesday?

17 A On Tuesday. Although I may have saw -- I
18 saw Bob Barnett at the funeral.

19 Q On Friday?

20 A Right.

21 Q Did he raise with you the question of this
22 box of documents?

1 A I know we said something about it. I know
2 we did.

3 Q At the funeral?

4 A Yeah -- well, actually I remember sitting
5 with him in the airport.

6 Q And what was the discussion?

7 A Oh, I -- I don't know what it was. Either
8 I said, you know, I'll get that box to you, those
9 documents over, and he said don't worry about it,
10 when you do, you do, or something like that.

11 Q Did he call you on Monday to ask you
12 whether he could help you get the documents over?

13 A No.

14 Q Did he call you on Tuesday to ask whether
15 he could help get the documents?

16 A The only time we spoke about the documents
17 again were when I saw him.

18 Q On Tuesday?

19 A Uh-huh.

20 Q Where did you get the key to the closet?

21 A I have it.

22 Q That was a key that you had at all times?

1 A No. It was a key that Carolyn Huber had.

2 Q So you went to Carolyn Huber to get it?

3 A Right. Carolyn Huber had the key.

4 Q So on Tuesday when this person was --

5 A No. No. No. Carolyn Huber had the key on
6 whatever day -- what was that?

7 Q Thursday?

8 A Thursday. Carolyn Huber had the key and
9 locked it, and she gave he me the key.

10 Q And you held the key until the following
11 Tuesday?

12 A I put it on my key chain.

13 Q What did you do with the key after the
14 Williams & Connolly person had picked up the
15 documents?

16 A You know, I don't know. I don't know if I
17 gave it back to Carolyn Huber. I could have left it
18 in an envelope for her at the usher's office. But
19 after that I did something with it.

20 Q Why did you take it with you all the way
21 out to Little Rock and hold it through Tuesday?

22 A I just put it on my key chain. It was with

1 my house keys and all the rest of my keys.

2 Q Why did you do that? Why didn't you just
3 return it to Mrs. Huber on Thursday?

4 A I don't know. I just -- she handed me the
5 key; I didn't want to lose it; I put it on my key
6 chain.

7 Q And after the document box went out with
8 the lawyer from Williams & Connolly, did you see that
9 box or the documents in it again?

10 A Huh-uh.

11 Q Do you know a person named Michael Banner
12 or Michael B.?

13 A Huh-uh.

14 Q That name doesn't ring a bell with you?

15 A No.

16 Q Did you have any conversations after
17 Thursday, take it in segments. From the period -- on
18 Friday, when you were in Little Rock, you saw
19 Mrs. Clinton?

20 A I saw her, but I didn't get to talk to her.

21 Q You didn't talk to her at all on Friday?

22 A No.

1 Q What about on the flight back?

2 A No.

3 Q Didn't talk to her at all?

4 A No.

5 Q Did you talk to her over the weekend?

6 A I don't recall talking to her over the
7 weekend. I don't recall talking to her over the
8 weekend, but it wouldn't be unusual for her to call
9 me over the weekend.

10 Q So it might have happened?

11 A Yes, it could have happened.

12 Q During the weekend, do you recall any
13 conversation with her concerning the documents from
14 Mr. Foster's office?

15 A No.

16 Q The following week, which is to say the
17 week beginning July 26th, which includes the Tuesday
18 in which the documents were picked up, did you have
19 any conversation with Mrs. Clinton concerning the
20 documents that you had removed from Mr. Foster's
21 office?

22 A The box of the personal files?

1 Q Yes.

2 A No. Tuesday was -- and that was really a
3 conversation with Bob Barnett.

4 Q And other than that, no conversation with
5 Mrs. Clinton about it?

6 A No.

7 Q Did you have any conversation with
8 Mrs. Clinton after Thursday -- I'll withdraw the
9 question.

10 From the time you were in Mr. Foster's
11 office on Thursday with Mr. Nussbaum through the
12 following week, did you have any conversations with
13 Mrs. Clinton concerning whether there was a suicide
14 note or a writing of Mr. Foster that might have
15 relevance to why he killed himself?

16 A No, I did not.

17 Q Were you around on Monday the 26th when a
18 member of the White House counsel's office indicated
19 that he had found a torn-up piece of paper in the
20 briefcase?

21 A No.

22 Q Did there come a time when you learned

1 about a torn-up piece of paper being found?

2 A Yes.

3 Q When did you learn that?

4 A I don't know exactly when, but -- I don't
5 know. I don't know if I learned it from the press --
6 no, I must have learned it before because somebody
7 from the press office called me to ask me who Kaki
8 Hockersmith was. And that's when they told me that
9 she was mentioned in a note or -- they were calling
10 it a writing found in Vince's office.

11 Q Were you surprised that a writing had been
12 found?

13 A Yeah.

14 Q Did you go and look for the writing? Did
15 someone show you the writing?

16 A No.

17 Q Did you ask to see it?

18 A No.

19 Q Were you curious about what was in it?

20 A Well, yeah.

21 Q Why didn't you ask to see it?

22 A Well, one, I didn't feel like I wanted to

1 see it, see it. And I figured sooner or later I
2 would know. And sooner or later the whole note was
3 printed.

4 Q But until the note was printed you mean
5 publicly?

6 A Someone, really -- I remember that someone
7 called me asking about Kaki Hockersmith and the
8 renovation. And I remember having a conversation
9 about it because people wanted to know all about the
10 renovation, and so I remember the note. I do
11 remember the note being read; I don't know where.
12 But there were people who wanted to know what, you
13 know, what it was, because press people were calling
14 or had the note and were going to release the note.

15 Q So you recall having it read to you in some
16 fashion?

17 A I do.

18 Q And then eventually seeing it in the press?

19 A Yes. Did I see it in the press? Yeah.

20 Q Did you discuss the finding of the note or
21 the locating of the note with Mr. Nussbaum?

22 A No, I didn't.

1 Q Did you discuss it with the First Lady?

2 A I don't remember a specific conversation,
3 but I'm sure I did.

4 Q What do you remember about your discussions
5 with the First Lady about the way the note was found?

6 A I don't know if it was the way the note was
7 found or what was in the note. I'm sure we talked
8 about what was in the note.

9 Q What did you talk about?

10 A Oh, I don't know. I'm sure we talked
11 about -- I mean, in addition to the Kaki Hockersmith
12 thing, at some point I know we must have talked about
13 it. I just can't imagine we didn't say something
14 about it.

15 Q You can't remember what you talked about?

16 A No. I'm sure that, like everybody else, we
17 looked at every piece and tried to think what any of
18 it had to do with. I don't remember it as a specific
19 conversation, but I can't imagine that we didn't.

20 Q Were you ever interviewed by Mr. Sloan of
21 the White House counsel's office about the
22 circumstances in which the documents were moved?

1 A I don't remember being interviewed by
2 Sloan. I don't know if it was an interview. I
3 remember Joel Klein or Neil Eggleston, maybe.

4 Q When did they talk to you about it?

5 A I couldn't tell you when. I don't know
6 when it was.

7 Q Was it after accounts appeared in the press
8 about your having been involved in moving the
9 documents?

10 MR. DODDS: Let me just interrupt for a
11 second. I'm not sure and it's not my privilege to
12 assert, but I'm not sure that your questions aren't
13 outside what at least I understand to be the White
14 House's waiver of whatever privilege the White House
15 has with respect to the matters that you're
16 questioning about.

17 MR. CHERTOFF: Well, I have been produced
18 notes, which I will reference, which at least appear
19 to be from -- it's represented to us they come from
20 Clifford Sloan's files. I can't indicate for sure
21 that it's his notes that are for the record Z332 to
22 334, so I don't know if that helps. If there's

1 someone you can call.

2 MR. DODDS: Did the notes purport to
3 memorialize a conversation between Mr. Sloan and Ms.
4 Williams?

5 MR. CHERTOFF: I can't tell you. They
6 appear to me to possibly do so, but I'm not sure.

7 MR. DODDS: Can -- and again, it's not my
8 privilege, so I'm not trying to be obstructionist.
9 I'm just trying to be careful.

10 MR. CHERTOFF: I suggest to call.

11 MR. DODDS: Do you want to do it right now,
12 or can you table it and come back?

13 MR. CHERTOFF: Why don't we table it, and
14 we'll take a break. And I will make a note to go
15 back to it.

16 (Recess.)

17 BY MR. CHERTOFF:

18 Q I do want to go back, by the way, speaking
19 about interviews with people in the White House, you
20 testified that last summer you were interviewed by
21 Ms. Sherbourne in connection with some kind of White
22 House counsel internal review. What was your

1 understanding of the purpose of that interview?

2 A Just that they were doing an internal
3 investigation.

4 Q With what purpose? Did you have an
5 understanding of what the purpose of it was?

6 A Just to know what the facts are, I guess.

7 Q Did they indicate they were going to do
8 anything as a consequence or at the conclusion of
9 that investigation?

10 A No.

11 Q Were you involved in preparing the First
12 Lady for her press conference on April 22nd, 1994 in
13 which the subject of these documents came up?

14 A Yeah, sure. I'm sure.

15 Q And in preparation for that, did you go
16 over with her questions and answers that might come
17 up regarding the handling of the documents?

18 A Not the handling of the documents.

19 Q But about Whitewater?

20 A Yeah. I did what I would normally do. I
21 came up with every question I could think of,
22 anything that had been asked in the press.

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1 Q Did you prepare something in writing?

2 A No, I didn't. I think -- the only writing
3 I think was, was -- David Kendall prepared whatever
4 writing there was. Can I say --

5 MR. DODDS: Let's just --

6 MR. CHERTOFF: Do you want to go off the
7 record and talk.

8 MR. DODDS: Yeah.

9 MR. CHERTOFF: Go ahead.

10 (Discussion off the record.)

11 MR. DODDS: Let me --

12 MR. CHERTOFF: Go ahead.

13 MR. DODDS: Let me just, before Ms.

14 Williams proceeds, I think we have the same concern
15 about this area as with -- as we have with respect to
16 your questions about any interviews she may have had
17 with Mr. Sloan. Again, it's not my privilege, I just
18 want to be careful.

19 MR. CHERTOFF: I don't see the privilege
20 issue. Her conversations with the First Lady about a
21 press conference? What's the privilege?

22 MR. DODDS: Well, the point is I don't know

1 for sure. All I understand is that the White House
2 has waived whatever privileges it has with respect to
3 matters involving the handling of the Foster
4 documents. I also understand that the White House
5 has not waived privileges with respect to whatever it
6 did to respond to the issues which arose from the
7 handling of the Foster documents. What I would like
8 is simply the opportunity, when I speak to Ms.
9 Sherbourne about the other thing, to talk to her
10 about this. I have no substantive concern about this
11 at all.

12 MR. CHERTOFF: Why don't we do this, then:
13 Why don't we take a break. And, I mean, obviously,
14 I'm interested in the matters we talked about before
15 as well as the questioning of anything to do with
16 press conferences and subsequent responses and things
17 of that sort. And take an opportunity to consult and
18 then we'll get back.

19 MR. DODDS: Do you expect there to be any
20 other issues that might give rise to the same kind of
21 telephone call? Again, we have no substantive
22 concern about it; I just want to make sure she is

1 adhering to whatever privileges the White House
2 thinks it has.

3 MR. CHERTOFF: I think there will be
4 questions about conversations with Mr. Sloan or
5 whoever else in the White House counsel's office
6 contemporaneous with that, or as well as
7 conversations concerning, with people in the White
8 House concerning how press things were to be
9 handled. That covers the waterfront.

10 MR. DODDS: Why don't we take that break,
11 then, and I'll talk with her. And we can probably
12 clear it up.

13 (Recess.)

14 MR. DODDS: I have spoken to Ms. Sherbourne
15 and I no longer feel the need to interpose any
16 objection to the questions along the lines that you
17 were asking.

18 BY MR. CHERTOFF:

19 Q Well, let me, then, go back to the
20 questions concerning the interview with Mr. Sloan or
21 with people in the White House counsel staff. You
22 said there was a period of time when you talked to

1 Mr. Klein and Mr. Eggleston?

2 A I don't remember -- I don't remember Cliff
3 Sloan being in there, but I -- for some reason I
4 remember Joe Klein.

5 Q And was this after there were press stories
6 concerning your having removed documents up to the
7 residence?

8 A I don't know.

9 Q Do you know what caused this interview with
10 counsel to occur?

11 A No, I don't. I'm lost on the dates of --
12 because I don't remember the -- when press stories
13 started about it. I just don't know that period.

14 Q Was it before the hearings last summer?

15 A Oh, yeah. It seems like it was way before
16 the hearings last summer.

17 Q Was it around the time Mr. Fiske was
18 appointed independent counsel?

19 A Well, here's the thing there: Are so many
20 different, I don't know, agencies or jurisdictions
21 who are starting to interview. And it seems to me
22 that either I was scheduled for -- and I don't know

1 if it was FBI or whoever it was interviewing -- for
2 an interview -- and maybe Mr. Fiske got appointed in
3 the middle of that which screwed up that interview.

4 But I do remember there being something
5 that I thought I was getting ready to go into. So I
6 don't know if that was the same thing. But I was
7 being interviewed by someone. I don't know -- I
8 don't know.

9 Q In the interview with people from the White
10 House counsel's office, did you indicate to them
11 something about Carolyn Huber going home on that
12 Thursday?

13 MR. BEN-VENISTE: You're asking her --

14 MR. CHERTOFF: Thursday, July 22nd.

15 MR. BEN-VENISTE: Could you read back the
16 question.

17 (The reporter read the record as requested.)

18 THE WITNESS: I may have. I don't know
19 who I was -- I could have. I told a lot of people
20 about this. One of the reasons Carolyn was irritated
21 was because she wanted to go home and she had to
22 catch the Metro. And it was a big deal to her that I

1 was holding her up. So, you know, I could have
2 talked about that.

3 BY MR. CHERTOFF:

4 Q And you told her when you called her that
5 you wanted to put it up on the third floor in the
6 closet?

7 A Well, this goes back to the original issue
8 I have with whether or not Mrs. Clinton said there's
9 a closet, and maybe she told me the location, or
10 whether or not I talked to Carolyn and Carolyn said I
11 put things up in the closet.

12 Q Now, did you indicate in your interview
13 with Mr. Klein and anybody else who was present from
14 the White House counsel's office at that time that
15 you had called Mr. Barnett before the Tuesday that
16 the boxes were removed?

17 A Before the Tuesday --

18 Q The boxes were removed. That's the 27th.

19 A I don't know if I did or not. I wouldn't
20 think so.

21 Q Did you mention a legal intern by the name
22 of Jonathan Copp?

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1 A I don't know a Jonathan Copp.

2 Q You don't know a Jonathan Copp?

3 A Huh-uh.

4 Q I'm going to show you what's been marked as
5 Z337, which is a copy of something on a piece of
6 White House note paper. It says "one half drawer VF
7 files personal locked up, Maggie Williams" and
8 there's another name that appears to be "Michael Ben
9 or Bear or authorized for off. ref." Let me ask you
10 if you have ever seen that before?

11 A No.

12 Q Were you interviewed by the FBI in
13 connection with an investigation into the
14 circumstances under which the torn-up Foster writing
15 was found, an investigation which took place during
16 the latter part of July and early part of August
17 1993?

18 A I don't know. I was interviewed by -- I
19 don't know.

20 Q This would have been the first set of
21 interviews by law enforcement which would have
22 occurred within a month after Mr. Foster died.

1 A Okay.

2 Q Do you remember being interviewed by the
3 FBI?

4 A I did. Yeah.

5 Q Did they ask you questions about your
6 knowledge of documents in the -- in Mr. Foster's
7 office?

8 A I don't know. This would have been the
9 first interview I ever had.

10 Q The first interview regarding Foster?

11 A The first interview I ever had was about
12 the night that Vince died.

13 Q They didn't ask you any questions about
14 anything other than that night?

15 A No. Because I -- after that month, I
16 didn't even think about the other -- moving the
17 documents or taking the documents as being an issue
18 or anything. But I know if this was the first
19 interview, it was because I went into Vince Foster's
20 office that night. And they asked about that night.

21 Q Did Mrs. Clinton ever tell you at any time
22 that she had seen the torn-up Foster writing before

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1 Mr. Neuwirth indicated he had found it on Monday,
2 July 26th?

3 A No. You're asking did she say she had seen
4 it?

5 Q Did she ever tell you that she had saw the
6 writing, the torn-up Foster writing, before the time
7 Mr. Neuwirth said he found it on that Monday?

8 A No.

9 Q Did you ever have any information that she
10 saw it over the weekend after the funeral?

11 A After the funeral?

12 Q Yeah. That torn-up writing?

13 A No, huh-uh.

14 Q When you were with Mr. Nussbaum in
15 Mr. Foster's office in the afternoon of the 22nd of
16 July, did Mr. Nussbaum indicate to you that he had
17 been trying to reach Carolyn Huber?

18 A No, he did not.

19 Q Did he indicate to you that he knew that
20 the documents were supposed to be put in the
21 residence?

22 A No, he did not.

1 Q Did he indicate to you that he wanted the
2 documents put in the residence?

3 A No, he did not.

4 Q Did he indicate to you that he had talked
5 to Mrs. Clinton about putting the documents in the
6 residence?

7 A No, he did not.

8 Q Now, Carolyn Huber let you into the closet
9 with a key; right?

10 A Yes.

11 Q And she locked the closet; right?

12 A Yes. She locked it or I locked it.

13 Q And then she walked out with you?

14 A Uh-huh. I'm pretty sure she did.

15 Q And it's your testimony that you took the
16 key with you?

17 A Yes.

18 Q Was there another key?

19 A I only knew about the key I had.

20 Q So you don't know whether there was another
21 key made?

22 A No, I don't.

1 Q Did you ask her whether you could take the
2 key?

3 A I think she just gave it to me. I mean,
4 I'm not sure that Carolyn -- I don't know if Carolyn
5 thought that, you know, I needed to have the key for
6 some reason or whatever; she just gave it to me. I
7 hooked it on my thing, on my key chain.

8 Q Well, there were other things in the
9 closet; right?

10 A Yeah, there were other things there.

11 Q Other boxes?

12 A Yeah.

13 Q Was it your understanding those other boxes
14 contained records?

15 A I don't know.

16 Q You wouldn't have walked off with the only
17 key to the closet, would you?

18 A I don't know how to answer that.

19 Q Was it your understanding that you were
20 walking off with the only key to the closet?

21 A I was not thinking "only"; I just thought I
22 have the key to the closet. I did not think this is

1 the only key; I did not think anything about the key.

2 Q And do you know when you returned the key
3 to Ms. Huber?

4 A I don't know exactly, but it had to be
5 after I went upstairs and unlocked the door.

6 Q And was it on that day or was it sometime
7 thereafter?

8 A I don't know exactly. I think it was that
9 day, but I don't know if I returned it to her, if I
10 put it in an envelope and had it sent to her -- I
11 don't know.

12 Q Did you have occasion to open the closet
13 between Thursday and Tuesday?

14 A No.

15 Q Now, I believe we had some testimony
16 earlier, before we broke, about your having
17 participated in preparing Mrs. Clinton for a press
18 conference that was to take place on April 22, 1994;
19 correct?

20 A Yes.

21 Q And you said Mr. Kendall was there for that
22 preparation as well?

1 A Yeah. But let me explain it. I think
2 during this time -- can I say --

3 (Discussion off the record.)

4 THE WITNESS: Yes, he was there.

5 BY MR. CHERTOFF:

6 Q And who else was present for this
7 preparation?

8 A Well, most of the preparation was
9 Mrs. Clinton herself. I'm trying to figure out a way
10 to explain this because it was also during the time
11 that she was also answering questions about
12 commodities, which was the most recent deal that was
13 going on. So it was probably depending on what it
14 was. She was mostly trying to piece the stories
15 together herself to know what happened.

16 So I think the most time she spent was with
17 Kendall. And then the -- the prep was -- I mean, not
18 superficial, but fairly -- we didn't even know she
19 was going to do a press conference, quite frankly.
20 She decided that morning that she was going to do
21 it. But she always knew she had to figure out the
22 whole story and hear what it was, and then we had

1 commodities, which was the main thing. So I think
2 John Podesta may have been there when she did
3 something on commodities and then Kendall, and I know
4 I sat in, and I know Lisa Caputo.

5 Q So Lisa Caputo was there, you were there,
6 and Kendall was there, and Mrs. Clinton was there?

7 A Uh-huh.

8 Q And this took place where?

9 A Her office.

10 Q In the west wing?

11 A Her office in the west wing, or maybe it
12 was a call to Kendall. I mean, like I said, her
13 preparation with him was something -- we were more
14 cosmetic on this, I mean, on this deal except for,
15 you know, getting every single question to Kendall
16 that was in the news.

17 Q So you were working getting questions to
18 Kendall and he prepared something in writing for her
19 to work with as a kind of list of possible questions?

20 A Yeah, I think they worked on it together.

21 Q And that included possible questions and
22 possible answers?

1 A Yeah.

2 Q And some of that input came from you?

3 A Yeah, I'm sure.

4 Q And you saw the document?

5 A Yeah.

6 Q And was the document with you when you were
7 in the preparation session with Mrs. Clinton?

8 A I don't know. I mean, we're not talking
9 about a specific preparation thing. Let me -- let me
10 try and give some -- one, we know if we're ever going
11 to do a press conference about this. But there were
12 questions that kept going on, plus there was the
13 independent counsel. So there was always an issue
14 about whether or not she should go forward and have a
15 whole press conference until the independent counsel
16 was done.

17 But her view was since she didn't know the
18 whole Whitewater story and didn't know enough about
19 the commodities that she should probably find out
20 from Kendall what they were and just be prepared
21 whenever a decision was made. So it wasn't as
22 strategic as it might be if we were planning for a

1 press conference. The morning she decided to do
2 it -- I mean, up until the night that she decided to
3 do it we didn't know if she was going to do it, and
4 then she decided and then there was one, you know,
5 there was one that was serious, we knew it was
6 happening that day.

7 Q So there was preparation in a general sense
8 before that day; right?

9 A Yeah, just in a --

10 Q Understanding that questions were coming
11 up?

12 A Right.

13 Q In the course of that, you said she didn't
14 know what the full Whitewater story was or what the
15 commodities story was and she needed to find out from
16 Kendall?

17 A Uh-huh.

18 Q And you provided certain facts or input to
19 Kendall to help him prepare that?

20 A Yeah. Mostly not facts, mostly questions.
21 Mostly questions, you know, what was coming up.
22 Although we had kind of more in-house on the

1 commodities stuff because that was a whole other
2 thing that wasn't related to anything but was in the
3 middle of it.

4 Q When you say "in-house," what do you mean?

5 A John Podesta was taking questions on
6 commodities, which really wasn't a part of Whitewater
7 but they got thrown into the same pot.

8 Q Who was handling the issue of the Foster
9 documents?

10 A The issue of the Foster documents?

11 Q Who was compiling questions on that issue,
12 the Foster document handling?

13 A How many questions were there?

14 Q I'm afraid I can't answer the questions;
15 you have to. You say people were preparing for
16 possible questions regarding Whitewater --

17 A Right.

18 Q -- and other related things. Who was
19 compiling or putting together a set of potential
20 questions regarding the handling of Vincent Foster's
21 documents?

22 A I'm sure I had something to do with it.

1 Q And you worked with Mr. Kendall on that?

2 A Yeah, I mean -- probably, yeah.

3 Q And part of it what you were trying to do
4 in the preparation sessions, including the session
5 the day of the conference, was to make sure you all
6 were in agreement as to what the facts were so the
7 First Lady could answer questions?

8 A Right. But as between the Foster
9 documents, commodities trading and issues that were
10 clearly Whitewater issues, about how they got
11 involved in the investments, I don't remember the
12 documents being a huge piece of this.

13 Q This was documents prepared by Mr. Kendall?

14 MR. DODDS: The documents? You meant --

15 BY MR. CHERTOFF:

16 Q Oh, I'm sorry; I'm sorru. I
17 misunderstood. Okay. The issue of the documents you
18 don't remember as being a large part of the
19 preparation?

20 A I'm sure. We would have been stupid to
21 think there wasn't a question about the documents.

22 But it wasn't a --

1 Q A big part of it?

2 A No. Not in comparison to the commodities
3 questions, which most of the press conference was
4 about, and the next big part of it had to do with the
5 investment and Whitewater.

6 Q Mr. Kendall's document did have some
7 potential questions and answers concerning the Foster
8 documents?

9 A I haven't seen that document in a long
10 time. I don't know. It could. I mean, it wouldn't
11 strike me as extraordinary.

12 Q Did you talk to Mr. Kendall about your
13 recollection of the events involving the documents?

14 A No, I didn't.

15 Q Did you talk to Mrs. Clinton about it?

16 A No, I didn't talk to her about it. Because
17 at that point nobody would talk to anybody about
18 anything in the White House, almost. I mean, you
19 know, having to do with personal stuff, so I didn't
20 have a discussion with her.

21 Q I'm not following. Nobody would talk to
22 anybody in the White House about personal stuff?

1 A No one -- for instance, anything that
2 concerned me, personally, with respect to this
3 matter, you know, I would not share it with
4 Mrs. Clinton. Mrs. Clinton wouldn't, you know, talk
5 to me about it, either, because I was personally
6 involved.

7 Q Well, but how were you going to prepare her
8 for answers to questions on the documents when those
9 answers involved your personal activities?

10 A Except for the fact that the only question
11 that needed to be answered with respect to the
12 documents, I think, in April, if I'm not wrong, is
13 that where did the documents go.

14 Q And did you discuss that with Mrs. Clinton
15 in advance --

16 A They went to the lawyer's office.

17 Q And did you discuss that with Mrs. Clinton
18 in advance of the press conference?

19 A I don't remember what her answer was in the
20 press conference, but it was that it went to her
21 lawyer's office.

22 Q Well, let me refresh your memory.

1 A Okay.

2 Q At the press conference -- and I'm reading
3 from Z107.

4 "Question: And to follow, why did" -- this
5 is dated April 22, 1994. "And to follow up, why did
6 your chief of staff, Maggie Williams, why was she
7 among those who removed these documents from his
8 office?

9 "Mrs. Clinton: I don't think that she did
10 remove any documents. I think that what happened is
11 that after Mr. Nussbaum reviewed the documents and
12 after he did so, as I recall -- I was not here; I was
13 in Arkansas -- but I believe that was done in the
14 presence of officials from the Park Police and maybe
15 some other agencies. Then Mr. Nussbaum distributed
16 the files according to whom he thought should have
17 them.

18 "They were files related to ongoing work in
19 the counsel's office that needed to be passed on to
20 other lawyers, there were personal files of Vince's
21 that needed to go to his family, and there were these
22 personal files of ours that went to our lawyer."

1 Do you remember that question-and-answer?

2 A Now that you read it, yeah.

3 Q Now, isn't it a fact that you were among
4 those who removed documents from Mr. Foster's office?

5 A Well, I think one of the things that has
6 gotten very confusing here is the press accounts and
7 the press questions hit on two separate days. First
8 was the night of Vince's death. The discussion was
9 did you remove documents the night of Vince Foster's
10 death. And the implication was during that time that
11 those of us who had gone into Vince's office that
12 night had gone through his things and taken files.
13 That was one.

14 The second issue, which came much later and
15 I see as the breaking point, was after the files had
16 been removed, after the files had been removed by
17 Bernie Nussbaum and the officials. Taking documents
18 from Vince Foster's office was not in issue. I mean,
19 shouldn't have been an issue, wasn't an issue. The
20 idea was did we take documents that night. That was
21 all the discussion was.

22 I even think the press themselves were

1 confused about what they were asking in terms of time
2 frame. The next question was did you take any
3 documents -- which is not how that question was
4 asked -- did you take any documents after the
5 agencies or whoever had reviewed the documents. So
6 there were two, I mean -- you know, I think the
7 question that she answered, I mean were there
8 documents that were removed after they were reviewed
9 by the agencies, yes. Did they go to the lawyer?
10 Yes.

11 Q But you removed them. You were among those
12 who removed them afterwards; correct?

13 A Yes, I did.

14 Q And that's not in the answer, is it?

15 A But it is also not in the answer --

16 MR. DODDS: The answer is what it is.

17 THE WITNESS: I mean, it is also not in
18 the answer, I guess, the names of every single lawyer
19 who got files that were distributed to them from
20 Mr. Foster's other files. It is not there. I mean,
21 why was that not there? I mean, the idea was did I
22 take -- did I remove documents, no. I took a box of

1 documents at the instruction of Bernie Nussbaum. I
2 took a box to get to the lawyers' office. I was
3 under someone else's instruction who had the
4 authority, it seemed to me, to remove documents.

5 BY MR. CHERTOFF:

6 Q But you didn't get them to the lawyer's
7 office, did you?

8 A That's correct. But I have explained to
9 you why I did not.

10 Q Now, when you heard this question -- you
11 were present at the press conference?

12 A Yes, I was.

13 Q When you heard this question-and-answer,
14 did you say to yourself there's a problem with that
15 answer?

16 A No, I didn't say there was a problem with
17 that answer.

18 Q Did you talk to Mrs. Clinton about it
19 afterwards?

20 A No, I didn't talk to her about it.

21 Q Is there a doubted in your mind that, as of
22 that date, April 22, 1994, is there a doubt in your

1 mind that Mrs. Clinton knew you were taking the
2 documents, after Mr. Nussbaum completed his review,
3 up to the residence?

4 MR. DODDS: After Nussbaum's review?

5 THE WITNESS: After Nussbaum's review?

6 BY MR. CHERTOFF:

7 Q You knew that Mrs. Clinton knew you had
8 done that?

9 A She was there when Barnett was in the
10 residence with her, and he said get the documents out
11 of the residence.

12 Q And because you called her on the day in
13 question; right, on July 22nd?

14 A Yes.

15 Q And you told her you were taking documents
16 out of there?

17 A Right.

18 Q Did you understand that she had the
19 impression you were taking documents from Vincent
20 Foster's office on that day?

21 A I understand the question; I do. I
22 understand the question, but I maintain what is now

1 important to everybody in this room and the press was
2 not important to us. Did she remember that I told
3 her on the 22nd that I was taking, I don't know if
4 she remembered or not. If she didn't remember, she
5 didn't remember. I can't imagine that she would
6 remember or think that it was particularly relevant.

7 Q Well, if it wasn't relevant or important
8 why did she answer questions about it?

9 A Because it was raised in the press, and
10 everything that is raised in the press is not
11 necessarily relevant, but sometimes you give an
12 answer that you think answers the question.

13 Q Now, were you involved in preparation for a
14 press briefing held by Dee Dee Myers on August 2nd of
15 last year in which the subject of the documents came
16 up?

17 A I don't know if I spoke with -- I don't
18 think I spoke to -- I don't think I spoke to Dee Dee
19 Myers. I think that if I talked to anybody, I talked
20 to counsel's office. I don't think I talked to Dee
21 Dee.

22 Q Did you directly or indirectly assist in

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1 preparing Ms. Meyers for giving information out
2 concerning the handling of the documents on July
3 22nd?

4 MR. DODDS: Let me object to the question.
5 I don't know what "indirectly" means.

6 MR. CHERTOFF: I mean either talking to her
7 directly or communicating to her through somebody
8 else.

9 MR. DODDS: Saying something to someone
10 else with the intent that it be communicated to Dee
11 Dee Myers?

12 MR. CHERTOFF: Yeah.

13 THE WITNESS: I don't remember being
14 involved in briefing Dee Dee Myers.

15 BY MR. CHERTOFF:

16 Q I'm going to read you from -- a passage
17 from this press briefing Z578.

18 "Question: Dee Dee, is the First Lady now
19 prepared to revise the statements she made in her
20 news conference on August 22nd that Maggie Williams
21 did not remove any documents from Vince Foster's
22 office but that, in fact, the documents were simply

1 transferred to lawyers as Bernard Nussbaum had
2 suggested it was appropriate? Apparently
3 Mrs. Williams has made it plain that, in fact, the
4 documents were in the residence, say, for five days
5 and were taken there at Mrs. Clinton's directions by
6 Ms. Williams. Is the First Lady now going to revise
7 what she said?

8 "Ms. Meyers: I think that it is true that
9 Maggie didn't remove any documents from Vince's
10 office. They were removed by Bernie Nussbaum."

11 Do you remember this question and this
12 answer?

13 A No, I don't.

14 Q Would you agree with me that that answer is
15 not correct?

16 MR. BEN-VENISTE: Hang on. There's more to
17 it.

18 MR. CHERTOFF: "Let me just make a couple
19 of points. First of all, I think this is one area
20 that is still under investigation by Mr. Fiske, so I
21 think" --

22 MR. BEN-VENISTE: Are you reading now?

1 Continuing --

2 BY MR. CHERTOFF:

3 Q Yeah, continuing the answer." So I think
4 it would be inappropriate for me to say too much
5 about it. You're free to call Lloyd Cutler if you
6 want to discuss more details about this, but I do
7 think that a portion of that leaked out. I don't
8 know where it came from. So Maggie Williams and
9 others at the White House staff have confirmed that,
10 in fact, files were transferred from" --

11 And there's an interjection.

12 "Question: No, I'm" --

13 MR. BEN-VENISTE: It's in the memo.

14 BY MR. CHERTOFF:

15 Q It's in the memo. And Ms. Myers continues
16 on, "I'm just pointing out the source of the
17 story" -- this is a press person interjects, it's in
18 the memo and then Ms. Meyers continues to say "no,
19 I'm just pointing out the source of this story
20 originally was something that leaked out from the
21 ongoing investigation. And it has, I'm pointing out,
22 in fact been confirmed by people at the White House

1 that the files went from Mr. Nussbaum to Maggie for
2 safekeeping over the weekend while Bob Barnett and
3 others went to Little Rock for the funeral of
4 Mr. Foster.

5 "The President and the First Lady did not
6 look at those files. A messenger from Mr. Barnett's
7 office, who was then acting as the President and
8 First Lady's personal attorney, picked the files up
9 on Monday and took them to Williams & Connolly."

10 That's the complete answer, and I want to
11 direct your attention to this passage. "I think it
12 is true that Maggie didn't remove any documents from
13 Vince's office. They were removed by Bernie
14 Nussbaum."

15 Would you agree with me that that is
16 incorrect?

17 MR. DODDS: Would you let her look at the
18 document? A long passage was read and I think it's
19 gotten rather confusing.

20 THE WITNESS: I'm not confused.

21 MR. DODDS: I withdraw the objection.

22 THE WITNESS: The thing is there's no way

1 that I will, like, respond to little bits and
2 pieces. This was a press briefing. This was in
3 front of the press where it seems to me that Dee Dee
4 Myers outlined the full answer as full as she could
5 give it, and I would not disagree with her full
6 answer.

7 BY MR. CHERTOFF:

8 Q Is it true that you didn't remove any
9 documents from Vince Foster's office?

10 A What is true is that after Mr. Nussbaum
11 called me, after the appropriate authorities had
12 reviewed the files, Mr. Nussbaum called me and asked
13 me to take a box of designated files to the lawyers,
14 which, as you know, I did not do but did put them in
15 the residence. That's what is true.

16 Q At the time Mr. Nussbaum called you, did
17 you know who had reviewed the files?

18 A Who had reviewed?

19 Q Yeah.

20 A Everyone knew the Park Police was going to
21 review the files.

22 Q How did you know that?

1 A Because on Wednesday, it had been on the
2 radio that the Park Police had -- they were coming to
3 review the files.

4 Q Did you know whether in fact the Park
5 Police ever reviewed a single file when you went in
6 there on Thursday?

7 A Well, you know, I didn't know, but I had
8 something called simple faith in the integrity of
9 Bernie Nussbaum. And I assumed that he would not ask
10 me to come and take files out of there if he thought
11 that the proper process hadn't been done before he
12 called me. So I had faith that the White House
13 counsel would not ask me to do something that
14 wouldn't be right. And as I understood it, it was a
15 review by the agency.

16 Q And then you went in and you picked up a
17 file, which in your judgment was a personal file and
18 you put it in the box or the pile to be taken up
19 there; right?

20 A Uh-huh. And that was your decision; right?

21 A That was my decision.

22 Q It was not Mr. Nussbaum's decision?

1 A That was not Mr. Nussbaum's decision to my
2 knowledge. But, as I said, I had been in and out of
3 the room on a number of occasions. It's -- I mean,
4 this is a question for Bernie Nussbaum, but to my
5 knowledge, he had not looked at them.

6 Q This press conference on August 2nd occurred
7 after there were some newspaper stories indicating
8 the fact that the files had not been directly
9 transferred to the office of Williams & Connolly but
10 had in fact been in the White House residence for
11 several days. Do you recall that?

12 A Could be.

13 Q Do you remember those stories?

14 A Yeah, I know there were stories, but I
15 don't know the exact dates.

16 Q At the time those stories came back, they
17 were fairly prominently featured in the press?

18 A It could have been.

19 Q It was during the hearings last year in
20 fact; right?

21 A Yeah, could be. Yeah.

22 Q Did anybody come to talk to you when those

1 stories appeared to find out -- anybody in the White
2 House come to talk to you to find out if that was
3 true?

4 A I don't know if they came to me or at that
5 point I was directing everybody to my lawyer.

6 Q So even in terms of people within the White
7 House who had questions about the movement of these
8 documents, you didn't respond directly, you sent them
9 to your personal lawyer?

10 A If it had to do with press inquiries, if it
11 had to do -- by that point I probably in August --
12 was this before the hearings or during the hearing?

13 Q It was really right at the end.

14 A Right at the end of the hearings? By that
15 point, if anybody wanted to talk about this, they had
16 to talk to my lawyer.

17 MR. CHERTOFF: Excuse me. Just a second.

18 I have nothing further. Thanks.

19 THE WITNESS: Okay.

20 EXAMINATION

21 BY MR. BEN-VENISTE:

22 Q Very briefly, Ms. Williams, let me ask you

1 about the night of the 20th and the sequence of
2 events as you recall them, who entered the west
3 wing. And I'm not going to go through all those
4 details again, I know Mr. Chertoff covered them at
5 least once.

6 But for clarification, at some point that
7 evening, if I understand your testimony correctly,
8 you were carrying in your possession Mrs. Clinton's
9 schedule for some period of time that she had been
10 traveling, either inclusive of the Hawaii trip or at
11 least including the Little Rock schedule. And you
12 also had a draft statement which was in process
13 regarding Mr. Foster's death; is that correct?

14 A Well, the one thing that I know for sure
15 that I had in my hand at some point that evening was
16 a statement. I know that for sure. I also know that
17 since I had, in my hand, looking at the schedule in
18 the way that it came, you know, underneath the door
19 in the envelope, that it's possible that I had that.
20 I'm not sure I had it in my hand.

21 I'm really sure that I had the statement in
22 my hand because it was handed to me. The schedule I

1 would have had to pick up off the floor. You know,
2 it could be.

3 Q Let me ask you whether you think it's
4 possible that you carried the schedule either in the
5 envelope in which it would normally be distributed,
6 or apart from it, and the draft statement concerning
7 Mr. Foster's death into the counsel's suite when you
8 saw the light on in Mr. Foster's office?

9 A Well, no, I just don't remember having
10 anything with me there. Is it possible? After this,
11 anything is possible, but yeah.

12 Q Do you feel like you have a real clear
13 recollection of everything that went on that evening?

14 A No, I don't. Which is why I've been
15 forcing myself to try and remember, especially on
16 this what I had in my hand thing. And the schedule
17 and the statement -- statement I know I had in my
18 hand, the schedule, possible.

19 Q So it's possible that these are things that
20 you had carried in as you were walking through the
21 hallway and had noticed the light on in Mr. Foster's
22 office?

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1 A I suppose it's possible.

2 Q It wasn't that you had set out and were
3 determined to go into that office, but rather you
4 went in there when you noticed that a light was on;
5 is that correct?

6 A Right.

7 Q And if you had those materials with you
8 when you went into the office, does it then follow
9 that it would be likely that you carried them out
10 with you --

11 A Yes, everything is possible, yes --

12 Q -- when you went out. You would not rule
13 that out as a possibility?

14 A No.

15 Q And with respect to the procedure by which
16 you gained entrance to the office of the First Lady
17 that evening, you indicated that you had announced at
18 the guard's desk downstairs, the Secret Service
19 uniformed employee, that you wished to gain entrance
20 to that suite which was locked and for which you had
21 no key?

22 A Uh-huh. Yes. I'm sorry.

1 Q And your recollection is that the guard
2 could not leave his post to grant you admittance into
3 that office, but made some arrangement?

4 A Yes.

5 Q For the office to be opened?

6 A Yes.

7 Q And then you recall at some point the
8 office was opened obviously because you recall going
9 in?

10 A Right.

11 Q And the person who would have opened that
12 office was a Secret Service uniformed employee --

13 A Yes.

14 Q -- correct? Do you recall specifically
15 whether you were present at the moment that the
16 Secret Service uniformed guard opened that door?

17 A I think I was.

18 Q Do you have a specific recollection of
19 that?

20 A I don't have a specific recollection.

21 Q Is it possible that Ms. Lieberman was
22 present when that occurred and that she explained to

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1 the Secret Service guard that you were the First
2 Lady's chief of staff and that you would be entering
3 that office?

4 A I think that's possible. I mean, I think
5 that's possible, but.

6 MR. BEN-VENISTE: I have nothing further.

7 MR. CHERTOFF: Just kind of these couple of
8 points.

9 EXAMINATION

10 BY MR. CHERTOFF:

11 Q Since anything is possible, virtually, is
12 it your recollection when you went up with Ms.
13 Lieberman that you left her alone to stand at the
14 door while you went off to do something else?

15 MR. BEN-VENISTE: At what point?

16 BY MR. CHERTOFF:

17 Q On July 20th when you first came up to the
18 White House?

19 A That I left her alone --

20 Q Yeah?

21 A -- to stand at the door.

22 Q Waiting for the guard to open it.

- 1 A Yeah, that's possible.
- 2 Q Does that seem likely to you?
- 3 A Well, I don't remember, like I said, I
- 4 don't remember the sequence of going into my office,
- 5 if I headed there to get the schedule first or
- 6 whatever. But I would trust Evelyn to be there to
- 7 see that the door got opened.
- 8 Q Well, you notified someone at the guard
- 9 desk that you needed to have the door opened; is that
- 10 right?
- 11 A Uh-huh.
- 12 Q And you went up with Ms. Lieberman; right?
- 13 At some point a guard comes to open the door; right?
- 14 A Right.
- 15 Q Do you remember the guard opening up the
- 16 door?
- 17 A I don't have a specific recollection of it.
- 18 Q Do you remember going off someplace else
- 19 while Ms. Lieberman stood there?
- 20 A I don't have a recollection of that,
- 21 either.
- 22 Q When you had the schedule in your hand, was

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- 1 that before or after you had gone down to Mr. Gearan
- 2 to get the press release?
- 3 A I don't really know.
- 4 Q Was it part of the same trip?
- 5 A I don't really know.
- 6 Q The schedule you say was perhaps at most
- 7 half a dozen pages?
- 8 A No, I did not say that. What I said was in
- 9 response to a question, was how many pages it could
- 10 be possibly, would it be bigger than a breadbasket,
- 11 and I had said that when they're long trips, often
- 12 they will put all the days together in one packet.
- 13 Q I'm sorry. How long was this trip?
- 14 A Oh, it was pretty long. It was -- we still
- 15 had the Arkansas leg, and the end of the California
- 16 leg.
- 17 Q So how many days was that?
- 18 A I don't know exactly how long the Arkansas
- 19 leg was for, past Thursday, I don't know, but it was
- 20 at least two more days left.
- 21 Q So what is your estimate of the number of
- 22 pages in the schedule at that point?

1 A I don't have a good estimate.

2 Q Would it be more than 10?

3 A I don't have a good estimate, because the
4 schedule also has lots of other information. It's
5 not just the information about, you know, on my
6 schedule, the information is not just she's going to
7 be in at 8:30. It could have the list of people who
8 are going to be at the Arkansas hospital event. It
9 could have, depending on if there are prepared
10 remarks or not, it could have the remarks there if it
11 didn't get to her in time. I just don't remember
12 enough to tell you exactly.

13 Q Now, you say you picked it up off the
14 floor?

15 A Uh-huh.

16 Q Why did you pick it up off the floor?

17 A Because normally it's delivered because the
18 doors are shut and someone pushes it underneath.
19 That's how it is being done then, now they fax it.
20 It's in an envelope and push it underneath the door.

21 Q On this occasion the schedule you picked up
22 on the floor of your office had been pushed under the

1 door?

2 A As I said before, I am not clear that I
3 actually picked up the schedule and now I have the
4 schedule on my mind. I could have picked it up. I
5 can't be certain, but it is possible that, you know,
6 I knew where the schedule was going to be, underneath
7 my door in an envelope, so.

8 Q Was the schedule so heavy you had to carry
9 it with two hands?

10 A No.

11 Q Was the press release or press release and
12 copies so heavy on that day you had to carry it with
13 two hands?

14 A Oh, no. As I said before, the press
15 release was very short.

16 MR. CHERTOFF: Nothing more. Thanks a
17 lot. Let me say -- nothing more.

18 (Whereupon, at 3:40 p.m., the deposition
19 was concluded.)
20
21
22

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I, LORI J. SEGNERI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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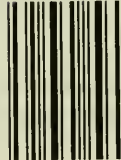


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